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Report of the Working Group on the Universal Periodic Review*

Libya

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Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1, held its twenty-second session from 4 to 15 May 2015. The review of Libya was held at the 16th meeting, on 13 May 2015. The delegation of Libya was headed by the Deputy Minister of Foreign Affairs and International Cooperation, Hassan A. M. Alsghayr. At its 18th meeting, held on 15 May 2015, the Working Group adopted the report on Libya.

2. On 13 January 2015, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Libya: El Salvador, Maldives and South Africa.

3. In accordance with paragraph 15 of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, the following documents were issued for the review of Libya:

(a) A national report (A/HRC/WG.6/22/LBY/1);

(b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) (A/HRC/WG.6/22/LBY/2);

(c) A summary prepared by OHCHR (A/HRC/WG.6/22/LBY/3).

4. A list of questions prepared in advance by the Czech Republic, Kenya, Liechtenstein, Mexico, the Netherlands, Slovenia, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Libya through the troika. These questions are available on the extranet of the Working Group.

I. Summary of the proceedings of the review process

A. Presentation by the State under review

5. The Deputy Minister of Foreign Affairs and International Cooperation stated that, after the first universal periodic review, Libya had gone through a radical political transformation. The 17 February 2011 revolution had broken out, followed by the fall of the former regime and the declaration of liberation in October 2011. The transition had been accompanied by security and institutional challenges. The security risks and political crisis had doubled the challenges in the field of human rights, as Libya faced acts of terrorism and the proliferation of weapons. Those negatively affected the humanitarian situation, causing the displacement of people and the disruption of services for citizens, including health care and education in many cities and regions.

6. The Deputy Minister thanked all the countries that had provided support to Libya in international forums and in all fields, especially the United Nations Support Mission in Libya (UNSMIL) and the Head of Mission, Bernardino León, for his efforts in making the dialogue a success.

7. He emphasized that, during the initial review in November 2010, 66 of the 120 recommendations had enjoyed support, 24 had been noted and 30 had been placed under consideration. After the February revolution, the recommendations under consideration had been reviewed. All had been accepted, except for one that had been only partially accepted. All but four of the noted recommendations had been accepted. A total of 115 recommendations had been fully accepted and one partially accepted. However, owing to the events in Libya, it had not been possible to implement some of the recommendations.

8. The negative legacy of the policies and practices of the dictatorship, which had lasted for more than four decades, had prevented the Libyan people from enjoying their assets and economic resources or building solid State institutions in a range of areas, including education, health and housing. That situation had affected wide sections of the Libyan people in the enjoyment of their economic, social and cultural rights.

9. At the level of civil and political rights, the former regime had used repressive methods, eliminated political dissidents, suppressed freedom of opinion, stifled political pluralism and replaced the concept of citizenship with that of allegiance to the regime. In the so-called Abu Salim Prison massacre of 1996, over 1,270 prisoners had been killed. The memory of the massacre had played a significant part in precipitating the 17 February 2011 revolution. An association of families of victims of the massacre had organized a peaceful demonstration in Benghazi. The forces of the regime had reacted brutally, committing war crimes, crimes against humanity and grave human rights violations. The international community had reacted by adopting Security Council resolution 1970 (2011), which had referred the situation in Libya to the International Criminal Court and Security Council resolution 1973 (2011), which had established a no-fly zone and provided for the protection of civilians in the light of the crimes and repression of the Qadhafi regime forces. The confrontation between regime forces and the revolutionaries, backed by international coalition forces, had continued until liberation had been declared on 23 October 2011.

10. In March 2012, Libya extended a standing invitation to the special procedures. It agreed to allow the Working Group on Arbitrary Detention and the Working Group on Enforced Disappearances to visit the country; however, visits had not yet taken place. Libya had also invited the High Commissioner for Human Rights to visit the country.

11. As for the most prominent developments in the field of human rights, the Deputy Minister stated that chapter I, article 2 of the Constitutional Declaration of 3 August 2011 provided that the State shall work to establish a civilian, democratic political system based on political pluralism, with several political parties, in order to ensure the peaceful transfer of power.

12. Chapter II addressed the question of civil rights and liberties. Article 1 guaranteed the linguistic and cultural rights of all components of Libyan society, including the Amazigh, Toubou and Touareg. Under article 7, the State was obliged to safeguard human rights and basic freedoms and to work to adopt new legislation guaranteeing such rights and freedoms. Article 5 guaranteed the protection of mothers, children and older persons and the care of children, younger persons and persons with special needs.

13. The Constitution Drafting Assembly had begun its work on 21 April 2014 and in December 24 presented some proposals for discussions by specialists, stakeholders and representatives of civil society, whose views would be taken into consideration at the re-drafting stage.

14. The National Council for Civil Liberties and Human Rights had been established pursuant to Law No. 5 (2011) on the basis of the Paris Principles. The aim of the Council was to preserve, strengthen and defend civil rights, and monitor and document violations of those rights, and support and encourage civil society organizations.

15. The Civil Society Commission had also been established by Decision No. 649 (2013). The Commission was responsible for registering civil society organizations and monitoring them to ensure that they carried out their work in accordance with the legislation in force. To date, the Commission had registered more than 3,000 such organizations.

16. On transitional justice and national reconciliation, the Deputy Minister mentioned the adoption of a number of laws and decisions, including Law No. 29 (2013) on

transitional justice, which abrogated Law No. 17 (2012) and established a fact-finding and national reconciliation body, a fund for victims and an ombudsperson's office.

17. Other laws adopted included Law No. 29 (2012) on the right to establish and join political parties, Law No. 65 (2012) regulating the rights to peaceful protest, Law No. 10 (2013) criminalizing torture, forced disappearance and discrimination, Law No. 11 (2013) amending provisions of the Military Penal Code and the Code of Criminal Procedures to specify that civilians shall not be tried by military court, and Law No. 50 (2012) on compensation for political prisoners. The Prime Minister had issued Decision No. 39 (2012) establishing a permanent committee to monitor human rights in Libya within the Ministry of Justice.

18. As for economic, social and cultural rights, a law had been adopted to raise the minimum public-sector wage and raise the minimum basic and social insurance allowances. For family development, a marriage support fund had been established in order to help people who are getting married. Law No. 63 (2012) establishing the Anti-Corruption Authority and Law No. 18 (2012) on the rights of cultural and linguistic groups had also been adopted.

19. On the right to education, as per Arab League Council resolution No. 391 of 2007, a national plan had been set out for implementation of the Arab plan for human rights education in February 2014.

20. The Ministry of Education enrolled displaced students in the schools nearest to where they had been relocated. The State had also established schools in the refugee camps and provided transportation to school. It had also established an office in the Ministry of Education for displaced persons' affairs. A special school for children with tumours had also been established at Tripoli Medical Hospital.

21. Regarding the rights of cultural groups to education, Law No. 18 (2013) on the rights of cultural and linguistic groups was adopted. The Amazigh language was to be included as a subject in the curriculum of primary-school grades one to four in those areas in which the language is spoken.

22. The State provided health care free of charge to citizens. The country had succeeded in eradicating poliomyelitis and no cases of that disease had been reported for more than 25 years. That fact had been confirmed by the World Health Organization. However, since the start of the 1990s, there had been a steady decline in the health-care system, owing to the international sanctions imposed on Libya and the departure of a large number of national medical cadres from the country.

23. There was no doubt that Libya was facing difficult challenges, which were an obstacle to achieving the promotion of human rights and the rule of law. The challenges required effective and concrete support from the international community. They were most notably the following.

24. Security risks associated with the expansion of terrorist organizations' activities: these organizations were committing grave human rights violations, targeting Libyans and foreigners. Responding to a question from Kenya, the Deputy Minister emphasized that the situation called for urgent action to support the security institutions to confront that phenomenon.

25. On the protection of human rights defenders, the Deputy Minister stressed that a national plan to rebuild State institutions must be developed urgently. It was particularly important to implement an effective programme to disarm and demobilize individuals and properly integrate them into State institutions within a development plan, which would contribute to restoring security and stability, activating the judiciary and preventing impunity.

26. The recent armed violence had caused the displacement of thousands of people. The Government must also deal with persons displaced to neighbouring countries and had taken some action to provide them with cash, in-kind assistance and rental subsidies.

27. Libya suffered as a result of illegal migration and was striving to confront that challenge, in cooperation with neighbouring States and the European Union. Libya was not a source country of migration but, rather, a transit country. That phenomenon had placed a heavy burden on the country's economy and also affected security. The responsibility for addressing illegal migration therefore rested not only with Libya but required concerted efforts at the regional and international levels.

28. In order to respond to the legitimate aspirations of the Libyan people with regard to institution-building in such a way as to respect human rights and fundamental freedoms and safeguard human dignity, and in order to extricate the country from the crisis, the national dialogue must be brought to a successful conclusion.

29. The Deputy Minister reiterated his appreciation to the Working Group on the Universal Periodic Review and the sincere commitment of Libya to the universal periodic review process.

B. Interactive dialogue and responses by the State under review

30. During the interactive dialogue, 85 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

31. Turkey expressed concern about the dysfunctional justice system and the impunity with which forces loyal to the Government operated. Turkey reported the death of one of its civilians, whose ship had been targeted by artillery fire from land.

32. Uganda welcomed the establishment of the National Council for Civil Liberties and Human Rights and noted the lack of a clear immigration framework and the unprecedented loss of life at sea of migrants travelling to Europe.

33. The United Arab Emirates appreciated the efforts made by Libya to rebuild its well-founded institutions in various fields in order to establish the rule of law and achieve social justice for all citizens.

34. The United Kingdom of Great Britain and Northern Ireland expressed concern about armed brigades acting with impunity, the displaced, the death penalty, decreasing space for civil society, and restriction of women's rights. It urged progress in the United Nations peace talks.

35. Brazil noted a primary need for prevention and political solutions and an inclusive dialogue and stated that interventions to protect civilians must be carried out in accordance with the principle of responsibility while protecting.

36. The Bolivarian Republic of Venezuela condemned the use of force to solve conflicts, called for dialogue and rejected the interference in Libyan sovereignty.

37. Yemen asked the international community to support and help Libya overcome challenges and difficulties that it was facing in order to move towards stability and the protection of human rights.

38. Algeria appreciated the efforts made by Libya to create conditions for the promotion and protection of human rights and to provide assistance to vulnerable groups in society.

39. Angola supported the initiatives to end hostilities and called for measures to protect civilians. Angola also noted that Libya had ratified the majority of international human rights instruments, particularly those related to the rights of women.

40. Argentina noted with concern the humanitarian and security situation in Libya as expressed in Security Council resolution 2174 (2014).

41. Australia commended the efforts of UNSMIL to achieve a political solution, expressed concern about the deteriorating human rights situation against political representative, journalists, human rights activists and civil society representatives.

42. Austria noted that women, children, minorities and internally displaced persons were particularly affected by the ongoing violence. It expressed deep concern about threats and attacks against media professionals, judges, prosecutors, lawyers and human rights defenders.

43. Azerbaijan welcomed the establishment of the National Council for Civil Liberties and Human Rights and the issuance of a standing invitation to the special procedures. It noted challenges in addressing the issue of internally displaced persons.

44. Bahrain appreciated the acceptance by Libya of the majority of the recommendations from the first review cycle and commended Libya on its efforts to promote and protect women's rights and equality and to provide free health services to citizens.

45. Bangladesh highlighted the need for State institution rebuilding, the need for national reconciliation, and the impact of the indiscriminate use of arms. It noted that Libya needed to be reviewed in a historical context, taking into account the root causes of violence in the country.

46. Belarus considered that the international community should provide Libya with support to address the humanitarian needs of the most vulnerable groups, including for food and other urgently needed goods.

47. Belgium expressed solidarity with the Libyan people and concern for the human rights violations perpetrated by all the parties in conflict, especially against human rights defenders. It regretted that Libya still had not established a moratorium on the death penalty.

48. Benin welcomed the establishment of the National Council for Civil Liberties and Human Rights and the adoption of Law No. 29 (2013) on transitional justice. Benin called on the international community to support Libya in its efforts to promote and protect human rights.

49. Uruguay welcomed the standing invitation extended to the special procedures.

50. Brunei Darussalam noted the challenges faced by the Government and its efforts to address the human rights situation by initiating the process to rebuild the related frameworks and institutions in the country.

51. Burundi commended Libya on adopting different legislative measures and decisions to improve the human rights situation, such as Law No. 5 (2011) establishing the National Council for Civil Liberties and Human Rights and Law No. 18 (2013) on the rights of cultural and linguistic groups.

52. Cabo Verde stated that it was crucial to guarantee fundamental rights in conformity with international standards as well as the separation and independence of powers in a new constitution.

53. Canada was deeply concerned with the situation in Libya, including the ongoing serious human rights violations, some of which might amount to war crimes. It said that the perpetrators of these must be held accountable.

54. Chad noted with satisfaction that Libya had accepted a large number of recommendations from the first cycle; however, it added that, owing to the troubling situation in the country, they had not yet been implemented.

55. In response to the comments made by Turkey, the Deputy Minister said that the Libyan army had not targeted civilians. As for the ship that had entered Libyan territorial waters, he noted that Libya was a sovereign country and that its sovereignty should be respected.

56. The delegation then replied to the questions on freedom of expression, association and assembly, transitional justice and national reconciliation. As for the trial of Seif al-Qadhafi, the delegation stated that he was in the custody of the independent judicial authority of Libya. This authority was in conflict of jurisdiction with the International Criminal Court regarding his case.

57. The Constitutional Declaration, in paragraph 14, guaranteed freedom of opinion, expression, the press and the media, while the laws restricting the freedom of the press and media had been abrogated by article 35 of the same document, including Law No. 120 (1972), Law No. 76 (1972) and Law No. 75 (1973). Article 15 of the Constitutional Declaration rescinded the ban on the formation of political parties and peaceful association.

58. On transitional justice and national reconciliation, the delegation reiterated that Libya had replaced Law No. 17 (2012) with Law No. 29 (2013) on transitional justice to deal with crimes committed by the Qadhafi regime against Libyans and against Libyan women in particular. Victims should be looked after in all aspects and given financial support and access to justice. Decision No. 380 (2012) had established a psychological support centre for the victims of sexual violence and torture. Decisions nos. 119 and 445 (2014) had also addressed their situation and established a fund for them.

59. On the cooperation with the International Criminal Court, the delegation underlined that, although Libya was not party to the Rome Statute, Libya had been cooperating with regard to the resolutions of the Security Council since 2011.

60. As for torture and enforced disappearances, under Law No. 29 (2013) on transitional justice, detainees must either be charged or released within specific time frames. The Public Prosecutor had formed four committees to classify the cases of those prisoners being held in the prison of the Ministry of the Interior. Furthermore, Law No. 10 (2013) criminalizing torture, enforced disappearance and discrimination had established investigative commissions, and many cases were being studied.

61. The delegation highlighted that Libya was trying to limit the death sentences to the minimum. The legislature had identified punitive laws that must be brought into line with international human rights standards. The Ministry of Justice was working with the United Nations Office on Drugs and Crime to develop a plan to review the country's criminal legislation.

62. Libya was continuing its investigations in relation to the massacre in Abu Salim prison. Death certificates had been presented to some families, but they lacked some information. Therefore, a committee was hearing the testimonies of those representing the victims in order to reissue certificates with the latest information.

63. Chile considered that Libya should investigate and punish State and non-State actors who committed acts of violence against women and children.

64. China appreciated the establishment of the National Council for Civil Liberties and Human Rights, the new electoral law guaranteeing seats for women delegates, the law promoting the rights of cultural and linguistic groups, and efforts to improve the judicial system.

65. Colombia appreciated the first-hand information on human rights situation in Libya and noted the establishment of the National Council for Civil Liberties and Human Rights.

66. Latvia expressed concern over the fact that, despite the standing invitation, no special procedures mandate holder had visited Libya to address allegations of torture, and that human rights defenders and journalists had been attacked.

67. Cyprus remained concerned over the human rights situation and the humanitarian crisis resulting from the fighting and the rise of extremist and terrorist groups.

68. The Czech Republic welcomed the Libyan delegation and thanked it for its presentation.

69. The Democratic Republic of the Congo stated that the escalation of violence had impaired the hopes that the Libyan people had after the 17 February 2011 revolution and noted the destruction of hospitals and schools and massive displacement of people.

70. Denmark stated that the new constitution must enshrine separation of powers, independence of the judiciary and human rights of the people, including the rights of women, freedom of expression and assembly and the protection of minorities.

71. Egypt confirmed its support for the legitimate institutions of Libya, represented by the Government and the House of Representatives and commended the establishment of the National Council for Civil Liberties and Human Rights.

72. Estonia expressed concern about the escalation of violence, resulting in hundreds of deaths and mass displacement and called on all parties to cease armed hostilities and take immediate steps to protect civilians.

73. Ethiopia was troubled by attacks on religious minorities and migrants by extremist elements and called upon the international community to support Libya in fighting terrorism and implementing the accepted recommendations of the Human Rights Council.

74. France noted the difficult situation in Libya.

75. Germany reiterated its call on all parties to live up to their responsibility and participate constructively in the United Nations-led dialogue to ensure the rapid formation of a national unity government.

76. Greece recognized the necessity to ensure the success of the national dialogue. Greece endorsed the recommendations of the Secretary-General on formalizing the role of the Office of the United Nations High Commissioner for Refugees in Libya, thus contributing to curbing mixed migration movements towards Europe.

77. Honduras was carefully following the situation in Libya and welcomed the fact that the process of adopting a new constitution was progressing.

78. Indonesia expressed confidence in building peace and reconciliation through a bottom-up process. It noted the strengthening of the Libyan legal, institutional and administrative measures, including through enactment of laws on transitional justice, electoral law and disability.

79. Iraq welcomed the adoption of the laws and decisions on the promotion and protection of human rights, including those raising the minimum wage for workers in the government sector and establishment of the National Council for Civil Liberties and Human Rights and the Civil Society Commission.

80. Ireland urged Libya to hold accountable those responsible for violations and abuses of human rights. It called on Libya to cooperate with the International Criminal Court and urged all parties involved in the United Nations-led dialogue to agree on a sustainable ceasefire and political solution.

81. Italy expressed support to the Libyan people in their efforts for the democratic transition, underlining the importance of a unity government as a crucial step to improve the respect of human rights.

82. Japan welcomed the expanded media and non-governmental organization activities and the spread of democratic values among the Libyan people, but expressed concern about attacks against human rights defenders, political activists and media professionals. Japan hoped for the improvement of the human rights situation through the establishment of the rule of law and efforts towards democratization.

83. Jordan commended Libya on the adoption of the interim constitutional declaration, which contained references to political pluralism and the civilian system, as well as laws relating to the protection and promotion of civil and political rights.

84. Kazakhstan expressed concern about the protracted political crisis, the escalation of violence, the indiscriminate attacks against civilians and the reports of extrajudicial executions, torture and abductions.

85. Kenya commended Libya on its efforts to draft a national constitution, and on the establishment of the National Council for Civil Liberties and Human Rights. Kenya was worried about the inhuman acts of mass beheadings.86. Kuwait stated that Libya was doing everything it could to respect their obligations under the universal periodic review mechanism despite challenges such as terrorism and that Kuwait would support its stability and territorial integrity.

86. Kuwait stated that Libya was doing everything it could to respect their obligations under the universal periodic review mechanism despite challenges such as terrorism and that Kuwait would support its stability and territorial integrity.

87. Costa Rica expressed concern over the situation of violence, institutional fragility and human rights violations caused by the humanitarian crisis in Libya.

88. Lebanon commended Libya on its respect for the universal periodic review mechanism and noted obstacles and challenges that Libya faced in protecting and promoting human rights, such as terrorism and proliferation of weapons.

89. Lithuania noted the positive steps taken such as the 2012 democratic elections, the establishment of the National Council for Civil Liberties and Human Rights, and the issuing of a standing invitation to the special procedures.

90. Luxembourg expressed concern about the prevailing security and humanitarian situation marked by a number of violations of human rights and international humanitarian law.

91. Madagascar welcomed various reform measures to improve the human rights situation in Libya.

92. Mali highlighted the need for the international community to encourage Libya to address the attacks against civilians, humanitarian workers and human rights defenders.

93. Malta urged Libya to unite in the interests of the security, stability and future prosperity, and to involve civil society organizations in the implementation of confidence building measures, particularly in the humanitarian aspect.

94. Mauritania praised the United Nations-sponsored dialogue between parties and commended Libya on its cooperation with the United Nations mechanisms. It called upon the Human Rights Council to assist Libya in supporting civil society.

95. Mexico acknowledged the difficult situation in Libya and welcomed the celebration of independent national elections in 2014.

96. On human rights education, the delegation stated that Libya had organized seminars and workshops for women, children and other groups that required special attention in order to raise their awareness of their rights and duties. Numerous activities had been conducted in coordination with UNSMIL. Programmes had been put in place to raise awareness in certain important sectors, such as in the Ministry of Defence. Awareness-raising programmes had been set up and training courses held for the judicial police and prison sectors.

97. Concerning the accepted recommendations on gender equality, the delegation stressed that Libya had ratified the Convention on the Elimination of All Forms of Discrimination against Women, as well as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which included a broad array of provisions concerning non-discrimination against women.

98. Article 6 of the Constitutional Declaration provided for gender equality before the law. The Constitution Drafting Assembly had addressed, in its proposals, all aspects of equality between men and women: divorce, inheritance and passing on nationality to children. Efforts were being made to bring national legislation into conformity with international standards and the rules of the sharia law.

99. Article 11 of Law No. 24 (2010) gave Libyan women the right to pass Libyan citizenship on to their children. An implementing regulation was supposed to have been put in place for that article; however, the political and security turmoil had not allowed for the promulgation of that regulation.

100. Women represented 60 per cent of the labour force. Law No. 58 (1971) prohibited the employment of women in dangerous jobs. The Social Insurance Act (1980) provided three-month maternity leave for working women.

101. The participation in elections made no distinction between men and women, and a system of quotas enabled women to participate fully in political life. The low representation of women was due to the culture of Libyan society and not to legislative restrictions. Regarding the participation of women in the United Nations-sponsored political dialogues, a special meeting for women in Tunisia had been held in April 2015 in order to stress the importance of their role in building State institutions.

102. Libya had been trying to find ways to better guarantee the rights of children through various entities such as the High Council for Childhood. The Ministry of Social Affairs was cooperating with the United Nations Children's Fund and local councils in this regard.

103. Regarding persons with disabilities, the delegation stated that Law No. 5 (1987) remained in effect and provided persons with disabilities with the rights to shelter, subsidized housing services, education, health care, access to facilities for the use of public transport, among others. Libya had also ratified the Convention on the Rights of Persons with Disabilities.

104. Montenegro expressed concern about violence and armed clashes, highlighting that all the parties responsible for human rights violations should be held to account.

105. Morocco appreciated the establishment of the National Council on Civil Liberties and Human Rights and the Civil Society Commission, and the law on transitional justice. It supported the United Nations-led national political dialogue.

106. Namibia urged all parties involved to assist the Constitutional Drafting Assembly in delivering a constitution guaranteeing fundamental rights and ensuring the separation of powers.

107. Nepal noted challenges such as building effective State institutions, curbing growing violence and religious extremism, and improving the administration of justice and the rule of law.

108. The Netherlands expressed concern about the effect of the ongoing conflict and supported the efforts of the Special Representative of the Secretary-General to come to an agreement on a ceasefire and a national unity government.

109. New Zealand recognized challenges regarding human rights reforms, and the increasing and persistent discrimination faced by migrants and asylum seekers from sub-Saharan Africa.

110. The Niger welcomed legislation to create the National Council for Civil Liberties and Human Rights, to allow for the formation of political parties, to establish an institution for anti-corruption and to criminalize torture, enforced disappearance and discrimination.

111. Norway was concerned about reports of possible war crimes committed and urged all parties of the conflict to respect international law and to engage in the United Nations-initiated political process.

112. Oman stated that the attendance of Libya at the universal periodic review session reflected its will to protect human rights. Oman emphasized the importance for the international community to exert more efforts to cooperate with Libya and provide it with technical assistance.

113. The Philippines encouraged Libya to continue to uphold human rights and provide an enabling environment for human rights to be achieved.

114. Poland expressed concern about violence between armed groups, causing hundreds of civilian deaths; inequality between men and women; and discrimination against minorities.

115. Portugal thanked Libya for the presentation of the national report.

116. Qatar expressed concerns about the growing numbers of asylum seekers, refugees and migrants trying to reach Europe from Libya and emphasized the need to intensify international efforts for the protection of vulnerable migrants.

117. The Republic of Korea commended Libya on a standing invitation issued to the special procedures. It expressed concern over human rights violations.

118. Rwanda commended Libya on ensuring compulsory education. However, it was concerned that education was affected by the conflict.

119. Senegal commended the progress in health and education sectors and the establishment of the National Council on Civil Liberties and Human Rights.

120. Serbia stated that the situation of migrants, refugees and displaced persons should be addressed. It encouraged Libya to engage in the protection of the rights of women.

121. Sierra Leone urged Libya to ensure that the National Council on Civil Liberties and Human Rights was in conformity with the Paris Principles and to address the issue of internally displaced persons.

122. Slovenia was deeply concerned by the human rights crisis, by the deteriorating situation of human rights defenders and the intimidation of and attacks on journalists.

123. On the issue of internally displaced persons and persons displaced to neighbouring States, the delegation stated that Law No. 29 of 2013 on transitional justice provided accountability and reparations mechanisms for victims of human rights violations committed since 1969. The Law stipulated the establishment of an agency for the affairs of

internally displaced persons. This agency had the authority to inspect their conditions, make it possible for them to exercise their rights and prevent discrimination against them. Libya also provided humanitarian assistance to internally displaced persons and persons displaced abroad. On 24 October 2014, the Government had pledged to pay school fees of all Libyan students in Egypt and Tunisia, and in February 2015, the Council of Ministers had held a meeting with the House of Representatives committee on displaced persons' affairs to discuss their situation in Tawergha and that of Libyan displaced persons in neighbouring countries. The Ministry of Social Affairs had a list of these people in the database. Assistance in kind and rental subsidies were being provided to them.

124. As for illegal migration, the delegation underlined that the western part of Libya was being used for crossing the Mediterranean but that the Government was not in control of that part of the country. The first ministerial meeting on border security had been held in Tripoli on 1 March 2012 and the Tripoli Action Plan had been adopted, which aimed at improving border monitoring and security in North Africa, the Sahel and the Sahara. Libya had also signed an agreement with Italy to fight organized crime and illegal immigration. In cooperation with the European Union and the International Organization for Migration (IOM), the Ministry of the Interior was providing training to staff dealing with this issue.

125. On human trafficking, the delegation stated that Libya had been considering enacting a law prohibiting human trafficking, and consultations were being held with IOM. As for refugee issues, UNHCR was assisting UNSMIL in this regard. Libya was a party to the African Refugee Convention and was considering the question of acceding to other instruments.

126. South Africa encouraged the implementation of Human Rights Council resolution 28/30 with the support of the international community.

127. Spain noted with concern that civil society was suffering persecution, aggression, kidnappings and attacks.

128. The State of Palestine appreciated the efforts by Libya to build the capacity of the national human rights institution, ensure transitional justice and the rule of law, and provide compulsory and free education.

129. The Sudan appreciated the legislative efforts being made by Libya, such as the ratification of the Convention on the Rights of Persons with Disabilities, the amendments to the Penal Code and the Code of Criminal Procedure, and Law No. 18 (2013) on the rights of cultural and linguistic groups.

130. Sweden acknowledged the current difficult situation and stressed the need for a political solution to the crisis. It noted attacks, including killings, abductions, torture and threats against human rights defenders.

131. Switzerland highlighted the importance for Libya to take all necessary measures to ensure respect, protection and promotion of human rights in its entire territory.

132. Thailand appreciated the continued engagement of Libya in the universal periodic review but was deeply concerned by the crisis. It noted the immediate need for all sides to cease human rights violations.

133. Togo expressed concern about the escalation of violence and stated that perpetrators must be brought to justice. It encouraged Libya to undertake efforts to regain territorial control and to ensure primacy of the rule of law.

134. The United States of America acknowledged the difficulties facing Libya, expressed concern for the ongoing violations and abuses committed by all sides. It noted the lack of a political agreement that could restore order.

135. The delegation stated that Libya was party to most of the major international human rights instruments. Article 7 of the Constitutional Declaration stipulated that Libya had to accede to all international human rights instruments. This had been witnessed in the accession to the Convention on the Rights of Persons with Disabilities. However, insecurity and the political crisis had a negative impact on reporting to treaty bodies. In terms of providing technical assistance towards establishing the rule of law and rebuilding the judiciary, efforts were continuing in cooperating and coordinating with UNSMIL and OHCHR.

136. Extending appreciation to all delegations, the Deputy Minister stated that all recommendations would be examined by the relevant authorities in Libya and that Libya would provide its response in due time, which reflected its commitment to the universal periodic review and its will to address the current human rights concerns.

II. Conclusions and recommendations**

137. **The following recommendations will be examined by Libya, which will provide responses in due time, but no later than the thirtieth session of the Human Rights Council, in September 2015:**

137.1 **Accede to the Convention on the Rights of Persons with Disabilities (Uganda);**

137.2 **Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Denmark) (Estonia) (Montenegro);**

137.3 **Ratify the international human rights instruments to which it is not yet a party, including the Optional Protocol to the Convention against Torture and the Rome Statute establishing the International Criminal Court (Honduras);**

137.4 **Ratify the following international human rights treaties: the International Convention for the Protection of All Persons from Enforced Disappearance; the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the Convention against Torture; and the Rome Statute; and bring its national legislation into compliance with all obligations (Madagascar);**

137.5 **Accede to/ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Benin) (Mali);**

137.6 **Ratify the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance (Cabo Verde);**

137.7 **Consider becoming a party to the International Convention for the Protection of All Persons from Enforced Disappearance and consider ratifying the Optional Protocol to the Convention against Torture (Uruguay);**

137.8 **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities (Sierra Leone);**

** The conclusions and recommendations have not been edited

137.9 **Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Domestic Workers Convention, 2011 (No. 189) (Philippines);**

137.10 **Accede to the Rome Statute of the International Criminal Court (Slovenia);**

137.11 **Take all necessary steps towards acceding to the Rome Statute of the International Criminal Court (Cyprus);**

137.12 **Ratify the Rome Statute and implement appropriate measures to fully cooperate with the International Criminal Court (Mexico);**

137.13 **Accede to and fully align its national legislation with the Rome Statute of the International Criminal Court (Poland);**

137.14 **Ratify the Rome Statute of the International Criminal Court and the Agreement on Privileges and Immunities of the International Criminal Court (Belgium);**

137.15 **Accede and fully align its national legislation with the Rome Statute of the International Criminal Court, and cooperate fully with the Court, including by assisting its proceedings and complying with its rulings (Austria);**

137.16 **Accede to the Rome Statute of the International Criminal Court, as well as to the Convention relating to the Status of Refugees and its Protocol (Italy);**

137.17 **Ratify promptly the International Convention for the Protection of All Persons from Enforced Disappearance, the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture, the Convention relating to the Status of Refugees and the Rome Statute (Chile);**

137.18 **Become a State party to the Convention relating to the Status of Refugees and its Protocol (Czech Republic);**

137.19 **Consider ratifying the Convention relating to the Status of Refugees of 1951 and its 1967 Protocol, respecting the principle of non-refoulement of refugees and asylum seekers (Uruguay);**

137.20 **Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and put in place mechanisms for determining refugee status (Sierra Leone);**

137.21 **Ratify the Convention relating to the Status of Refugees and its Protocol and, pending this, formalize the cooperation with the Office of the United Nations High Commissioner for Refugees in order to facilitate effective protection of the human rights of refugees and asylum seekers in Libya (Germany);**

137.22 **Ratify and strictly implement the Arms Trade Treaty without delay, giving particular attention to implementing measures to prevent the diversion and illicit trafficking of all types of conventional arms (New Zealand);**

137.23 **Remove the reservations to the Convention on the Elimination of All Forms of Discrimination against Women and take temporary special measures in favour of gender equality (Angola);**

137.24 **Lift all reservations to the Convention on the Elimination of All Forms of Discrimination against Women and allow women's participation in all**

tracks of the national concord government formation process, as well as in decision-making positions (Greece);

137.25 **Carry out the necessary reforms for the consolidation of the rule of law, by rapidly proposing a draft constitution (France);**

137.26 **Accelerate the process of drafting of the constitution, as it plays an extremely important role for the stability of Libya (Kuwait);**

137.27 **Intensify efforts for drafting a constitution which guarantees the fundamental rights of persons, as well as the separation and independence of the executive, legislative and judicial branches (Uruguay);**

137.28 **Pursue efforts to prepare a new constitution in conformity with international human rights norms (Senegal);**

137.29 **Take the necessary measures to ensure that its new Constitution is consistent with the human rights instruments to which Libya is a party (Honduras);**

137.30 **Consider incorporating basic human rights principles and guarantees for fundamental freedom on its new constitution (Philippines);**

137.31 **Intensify efforts to draft a constitution which would be in full compliance with the international standards of human rights protection (Kazakhstan);**

137.32 **Incorporate the largest human rights protection guarantees in the Constitution being drafted, partly contained in the current interim Constitutional Declaration (Spain);**

137.33 **Ensure that the Constitution is aligned with international human rights standards, thus contributing to political efforts aimed at fully restoring unity, peace, and security throughout Libya (Brazil);**

137.34 **Give full support to the Constitution Drafting Assembly and to an inclusive drafting process, leading to a constitution that is fully compliant with international human rights standards (Lithuania);**

137.35 **Ensure full support to the Constitution Drafting Assembly in order to deliver a constitution that fully complies with international democratic standards and safeguards the human rights of all on an equal footing, including women, minorities and vulnerable groups (Cyprus);**

137.36 **Ensure an independent, inclusive and consultative drafting process which will lead to a constitution guaranteeing fundamental rights of the people, including the rights of women, ensure separation of powers and independence of the judiciary (Slovenia);**

137.37 **Ensure that the constitutional framework duly protects journalists, media and civil society against intimidation, threats and assaults, and review the Penal Code accordingly (Denmark);**

137.38 **Continue the national dialogue to find a peaceful political solution to the crisis (Algeria);**

137.39 **Continue its efforts for stability, national reconciliation and the protection of human rights (Yemen);**

137.40 **Continue efforts in establishing stability in the country and in this regard to resume building state institutions (South Africa);**

137.41 **Build on current efforts to improve the overall human rights environment in the country through restoring stable governance and the rule of law (Republic of Korea);**

137.42 **Continue moving towards establishing a comprehensive unity Government through the Libyan Political Dialogue currently led by the United Nations (Republic of Korea);**

137.43 **Fully commit to the United Nations Support Mission in Libya-facilitated dialogue process, take urgent measures to promote and protect human rights, and restore the rule of law (Canada);**

137.44 **That all sides of Libya's conflict immediately cease armed hostilities and engage constructively in the United Nations Support Mission in Libya-led political dialogue, and use this opportunity to build a State based on democracy and respect for human rights and rule of law (Australia);**

137.45 **That the various forces in Libya act in the interests of the nation and the people, immediately stop fighting and violence, end the disorder, start the political process as soon as possible, resolve their differences, and safeguard ethnic and national unity. (China);**

137.46 **Make every effort to seek peace with all actors concerned in order to be able to re-begin the construction of the country both politically, socially and economically (Democratic Republic of the Congo);**

137.47 **Work through the United Nations process to finalize a political agreement as soon as possible and immediately begin the process of restoring rule of law and establishing necessary conditions and institutions for protecting human rights (United States of America);**

137.48 **Enact a plan to achieve national reconciliation based on dialogue and with the full ownership of all Libyans, including women and ethnic, religious and other minorities, while cooperating closely with the United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights (Czech Republic);**

137.49 **Provide the necessary support for national human rights bodies to help them do their work (Egypt);**

137.50 **Enhance legislation, strategies, national action plans, initiatives and create committees on human rights (Jordan);**

137.51 **Continue to establish a solid legal framework, strengthen national human rights institutions, and ensure the effective administration of justice (State of Palestine);**

137.52 **Create a national human rights institution in conformity with the Paris Principles (Madagascar);**

137.53 **Take effective steps to establish a national human rights institution in line with the Paris Principles (Kenya);**

137.54 **Take all the necessary measures to bring its national human rights institution in line with the Paris Principles (Honduras);**

137.55 **Give continuity to strengthening of national human rights institutions and mechanisms (Nepal);**

137.56 Continue with the efforts to strengthen the institutional infrastructure in the field of human rights, particularly through the establishment of independent national human rights entities (Colombia);

137.57 Ensure the effective functioning of the National Council for Civil Liberties and Human Rights (South Africa);

137.58 Strengthen the role of the National Council on Civil Liberties and Human Rights in the promotion and protection of human rights in accordance with the Paris Principles (Indonesia);

137.59 Revise Law No. 5 (2011) to bring the National Council for Civil Liberties and Human Rights of Libya into accordance with the Paris Principles (Canada);

137.60 Integrate human rights in the educational system at various levels (Sudan);

137.61 Making more efforts to spread human rights culture in the educational field at various levels (Algeria);

137.62 Step up efforts to ensure a safe environment for education and to work on implementing a model plan for human rights education, which aims to integrate human rights in the educational system at various levels (State of Palestine);

137.63 Continue its engagement with the human rights mechanisms of the United Nations for the protection and promotion of human rights (Azerbaijan);

137.64 Continue interaction with the Human Rights Council and its mechanisms with a view to strengthening the rule of law and protecting human rights in accordance with international instruments to which Libya has acceded (United Arab Emirates);

137.65 Continue implementing the remaining accepted recommendations of the Council from the first universal periodic review cycle (Ethiopia);

137.66 Pursue its efforts in the implementation of the recommendations made by the United Nations human rights mechanisms, especially recommendations accepted in the framework of the universal periodic review process (Qatar);

137.67 Continue its engagement with relevant United Nations bodies and other related international organisations to fulfil its commitment to promote and protect the rights of its people, especially the vulnerable groups (Brunei Darussalam);

137.68 Cooperate fully with international human rights procedures and institutions, including with the Human Rights Council fact-finding mission, with the aim of holding accountable those responsible for violations and abuses of human rights (United States of America);

137.69 Implement Security Council resolutions 1325 (2000) and 2122 (2013) on women and peace and security, and fully cooperate with the Office of the United Nations High Commissioner for Human Rights and the fact-finding mission appointed by the Human Rights Council (Canada);

137.70 Strengthen its cooperation with the United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights in order to resume capacity-building of national institutions dealing with

human rights, transitional justice and the rule of law, according to its Government's expressed wishes (Greece);

137.71 **Continue its cooperation with the High Commissioner in order to benefit from technical assistance necessary to help create a solid legal framework, strengthen national structures for human rights, and ensure the efficient administration of justice in the fight against impunity, abuses and all other attacks on human rights (Niger);**

137.72 **Continue to cooperate and coordinate with the international community and the United Nations Support Mission in Libya in order to obtain technical assistance to address the challenges faced in the promotion and realization of human rights (Qatar);**

137.73 **Submit all overdue reports to the relevant United Nations treaty bodies (Sierra Leone);**

137.74 **Establish gender equality and implement measures to prevent violence against women (France);**

137.75 **Take all the necessary steps to ensure gender equality and equity for women in all spheres (Honduras);**

137.76 **Continue to take measures to promote equality between men and women at all levels of society and government (Namibia);**

137.77 **Continue efforts to promote the rights of women, as well as the education and health of the Libyan people (Nepal);**

137.78 **Continue to strengthen and promote the legal and social status of women through constitutional and legislative guarantees (Bahrain);**

137.79 **Take actions to combat discrimination and violence against women, calling for measures to promote gender equality in the public, economic and private spheres (Colombia);**

137.80 **Make every effort to improve, by legislative and social measures, the status of women and ensure gender equality in Libya (Burundi);**

137.81 **Adopt a national plan to eliminate stereotypes about the role of women in society, particularly in the field of gender equality, as previously recommended (Mexico);**

137.82 **Take judicial and administrative measures to ensure equality and empowerment of women, including fair representation in the legislative and executive branches of the State and participation in political decision-making (Denmark);**

137.83 **Adopt appropriate administrative policies to promote gender equality in public affairs, particularly in the labour market, and enforce strict sanctions against all kinds of discrimination and abuse of women's rights by ensuring that the rights of women are genuinely recognized in national legislation (Serbia);**

137.84 **Review all laws and practices that discriminate on the basis of gender and bring them in line with international standards, including legislation with regard to marriage, divorce and inheritance (Estonia);**

137.85 **Undertake harmonization of Libya's nationality law to place women on an equal footing with men regarding the right to acquire, change or pass on their nationality (Kenya);**

137.86 Take the necessary measures to guarantee women the right to transfer their nationality to their children born in the territory, regardless of the status or nationality of the father (Argentina);

137.87 Ensure that Libyan mothers are able to pass their nationality to their children, regardless of the nationality of the child's father, and ensure access to birth registration for all children born in Libya (Poland);

137.88 Address discrimination against women in Law No. 24 for 2010 on the Libyan Nationality so that women can transfer their nationality to their children and foreign spouses, and acquire, change or retain their nationality, on an equal basis with men, in line with article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (Portugal);

137.89 Improve the rights of women, ensuring their full, equal and effective participation in conflict resolution and decision-making, including the Constitution drafting process, and tackling sexual violence, bringing perpetrators to justice (United Kingdom of Great Britain and Northern Ireland);

137.90 Combat discrimination based on nationality, ethnicity or religion (France);

137.91 Consider abolishing the death penalty (Rwanda);

137.92 Abolish the death penalty and, during an intermediate stage, adopt an immediate moratorium on executions (Belgium);

137.93 Establish a moratorium on the death penalty (Australia);

137.94 Adopt a moratorium on executions and abolish the death penalty (Costa Rica);

137.95 Establish a moratorium aimed at abolishing the death penalty (Argentina);

137.96 Establish a moratorium on the death penalty with a view to its abolition (France);

137.97 Establish a moratorium on the use of the death penalty with a view to abolishing it (Benin);

137.98 Establish a moratorium on the death penalty with a view to its final abolition (Uruguay);

137.99 Establish a moratorium on the death penalty with a view to considering its subsequent abolition (Spain);

137.100 Establish a moratorium of the death penalty as a first step to its abolishing (Lithuania);

137.101 Establish a moratorium on the use of the death penalty, aiming for its legal abolition (Nepal);

137.102 Introduce a moratorium on capital executions, with a view to fully abolishing the death penalty (Italy);

137.103 Establish an immediate official moratorium on the use of the death penalty with a view to abolishing it (Montenegro);

137.104 Establish a moratorium on the death penalty as an interim measure before its abolition and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Portugal);

137.105 Consider the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights and impose a moratorium on executions with a view to abolish the death penalty (Namibia);

137.106 Take all the necessary measures to end the escalation of violence and immediately cease armed hostilities (Slovenia);

137.107 Continue with the efforts to ensure respect for the rights and fundamental freedoms of the entire population and compliance with international humanitarian law, particularly the principles of distinction, proportionality and precaution during attacks (Argentina);

137.108 That all parties to the conflict in Libya cease violations of international humanitarian and human rights law, including attacks on civilians, as in line with previous appeals by the High Commissioner (Japan);

137.109 Ensure respect for the right to life, liberty and security of person for all in Libya, including by working towards an end of armed hostilities among Libyans, by complying with applicable international law in the conduct of hostilities, and by ensuring humane treatment of all persons detained, in line with international standards (Germany);

137.110 Hold accountable, in accordance with international standards, all parties responsible for violations of international human rights and humanitarian law and abuses of human rights, and include human rights guarantees in the new Constitution (Australia);

137.111 Condemn publicly and take action to stop, including through full cooperation with the United Nations and regionally mandated investigations, all human rights abuses and violations of international humanitarian law, including abductions, torture and other ill-treatment, and attacks on civilians and on civilian objects such as medical facilities (New Zealand);

137.112 Spare no effort in continuing to urge the prevention of acts of revenge and investigate abuses committed by its own combatants (Chile);

137.113 Take all necessary measures to protect schools from military use by fighting forces (Portugal);

137.114 Ensure the timely and unimpeded passage of humanitarian relief and guarantee the safety of humanitarian workers in the conflict zones (Thailand);

137.115 Immediately take all necessary measures to ensure access to humanitarian assistance and to protect civilians, including humanitarian workers, human rights defenders, and media workers, from attack (Ireland);

137.116 Ensure the safety of all vulnerable groups, including women, journalists, human rights defenders, and ensure respect for fundamental human rights (Netherlands);

137.117 Investigate and prosecute attacks and threats against journalists (Austria);

137.118 Take legal and practical measures to ensure the safety of human rights defenders (Spain);

137.119 **Conduct investigations of enforced disappearances and ratify the Convention relative thereto (France);**

137.120 **Reveal the fate and location of those persons who forcefully disappeared during the period of the Gaddafi regime, among whom the Lebanese Leader, Imam Moussa Al-Sadr and his two companions, who disappeared after their visit to Libya on 31 August 1978, following their meeting at that time with the Libyan President Muammar Gaddafi (Lebanon);**

137.121 **Prohibit the practice of torture, and prosecute its perpetrators (France);**

137.122 **Take actions to stop the use of torture, including sexual torture (Costa Rica);**

137.123 **End all torture or ill-treatment of detainees and the use of unlawful interrogation methods (Slovenia);**

137.124 **Intensify its efforts to prevent, combat and eliminate torture and accede to the Optional Protocol to the Convention against Torture (Luxembourg);**

137.125 **Ensure that all allegations of torture are promptly and impartially investigated and that victims obtain redress in accordance with Libya's international obligations under the Convention against Torture (Latvia);**

137.126 **Take all necessary actions to end torture and ill-treatment of detainees, ensure that all cases of alleged torture are promptly investigated and that perpetrators are held accountable (Ireland);**

137.127 **Amend legislation that allows corporal punishment, including amputation, and criminalize torture (Spain);**

137.128 **End arbitrary detentions and guarantee treatment of detainees in line with international standards (Switzerland);**

137.129 **Put an end to arbitrary detention and prevent abuses and discrimination against third-country nationals and against groups of citizens of Libya (Chile);**

137.130 **Close the illegal places of detention, which are the source of grave human rights violations (Chad);**

137.131 **Adopt measures to fight against the use of violence as a weapon of war (Angola);**

137.132 **Adopt clear and enforceable provisions criminalizing violence against women, including domestic and sexual violence (Latvia);**

137.133 **Pursue efforts to protect children from violence (Jordan);**

137.134 **Continue strengthening legal and policy protections which guarantee the rights of the child (Serbia);**

137.135 **Combat trafficking and sale in human beings (France);**

137.136 **Fight more vigorously human trafficking in the Mediterranean (Senegal);**

137.137 **Adopt the necessary legislations to combat the phenomenon of human trafficking (Egypt);**

137.138 **Adopt and enact legislation that prohibits all forms of human trafficking (Lithuania);**

137.139 **Implement all necessary measures to combat trafficking and smuggling of persons, and prevent the human rights abuse and the exploitation of migrants (Uruguay);**

137.140 **Enhance the capacity-building programmes for all branches of government (Indonesia);**

137.141 **Strengthen the independence of the judiciary, put an end to extrajudicial executions and arbitrary detentions, and strengthen the penitentiary authority (France);**

137.142 **Enhance its efforts to rebuild state institutions, and in particular a strong, efficient and independent justice system that respects due process and protects the human rights of detainees in line with international standards (Austria);**

137.143 **Take, through capacity-building and technical assistance from the international community, the necessary measures to restore and strengthen national institutions essential to the administration of justice, the rule of law, including the judiciary, the office of the prosecutor, and the police (Brazil);**

137.144 **Cooperate fully with investigations into human rights abuses and violations (Namibia);**

137.145 **Adopt all necessary measures to guarantee the fight against impunity for the perpetrators of crimes, acts of violence and all human rights violations (Argentina);**

137.146 **Investigate all alleged crimes and hold accountable, in accordance with international standards, all those responsible for violations and abuses of human rights and humanitarian law (Cyprus);**

137.147 **Ensure that all those responsible for human rights violations are brought to justice, in accordance with international standards, in particular the right to a fair trial (Belgium);**

137.148 **Strengthen efforts to investigate all allegations of torture, summary executions, enforced disappearance and other abuses, and to bring those responsible to justice (Italy);**

137.149 **Hold accountable all parties responsible for violations of human rights, including abduction of civilians, torture and deaths in custody (Lithuania);**

137.150 **Undertake prompt, thorough and impartial investigations of all human rights violations, in particular against women and children and hold those responsible to account (Slovenia);**

137.151 **Ensure all human rights violations, including assassination of journalists and human rights defenders, are investigated and the perpetrators brought to justice (United Kingdom of Great Britain and Northern Ireland);**

137.152 **Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation of human rights defenders and journalists, and hold all perpetrators accountable (Latvia);**

137.153 **Investigate the killings of journalists since October 2011 and bring perpetrators to justice (Greece);**

137.154 **Take measures to protect journalists and human rights defenders from acts of violence, including by investigating attacks and assassinations and strengthening accountability mechanisms (Germany);**

137.155 **Take action to stop attacks on human rights defenders and make sure that perpetrators are held accountable for crimes committed, in accordance with international standards (Sweden);**

137.156 **Take measures without delay to ensure that forces loyal to the Government are made accountable for their indiscriminate targeting of civilians, civilian vessels as well as civilian property and infrastructure, in order to end the atmosphere of impunity (Turkey);**

137.157 **Amend Law 38 of 2012, which provides total impunity to militia members who violate international humanitarian law and commit human rights abuses (Spain);**

137.158 **Continue its cooperation with the International Criminal Court in order that the perpetrators of human rights violations are held accountable for their actions, and engage on the path of accession to the Rome Statute (Luxembourg);**

137.159 **Accede and fully align its national legislation with the Rome Statute of the International Criminal Court, including by incorporating provisions to cooperate promptly and fully with the Court, and investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts (Estonia);**

137.160 **Ensure that all perpetrators of violations and abuses of the international human rights law and the international humanitarian law from all sides of the conflict are investigated, prosecuted and punished in accordance with international standards and cooperate with the International Criminal Court in this regard (Czech Republic);**

137.161 **Cooperate with the investigations and comply with the recommendations of the International Criminal Court in line with the Security Council (Costa Rica);**

137.162 **Meet its obligations to cooperate with the International Criminal Court pursuant to Security Council resolution 1970 (2011), and surrender Saif al-Islam Qadhafi to face charges against humanity in accordance with the Court's Appeals Chamber decision of May 2014 (Australia);**

137.163 **Create a compliant mechanism to determine reparations for the victims of sexual violence (Lithuania);**

137.164 **Ensure access to justice for victims of sexual violence by ensuring the effective implementation of laws protecting women (Luxembourg);**

137.165 **Strengthen transitional justice and its equity. Pursue cooperation with the International Criminal Court and consider ratifying the Rome Statute (France);**

137.166 **Draw up plans for transitional justice to ensure that all perpetrators of human rights abuses would be brought to justice (Sierra Leone);**

137.167 **Support international efforts to help restore the rule of law and develop transitional justice in the country (Thailand);**

137.168 **Make more efforts in order to make the national dialogue a success, and activate the law of transitional justice (Kuwait);**

137.169 **Develop, as part of the drafting process of a framework for Libya's political transition, an agenda on transitional justice and accountability, which includes investigations of all allegations of torture, to hold those responsible to account, and to provide redress and reparation for victims (Netherlands)**

137.170 **Adopt measures to guarantee the religious freedom and integrity of believers and their places of worship, regardless of their creed (Colombia);**

137.171 **Take practical and legislative measures, including in the Constitution, in order to eliminate incitement to violence and repetition of attacks against freedom of religion and religious cult (Cabo Verde);**

137.172 **Review the Penal Code articles that undermine freedoms of expression, association and assembly (Lithuania);**

137.173 **Repeal all provisions in the Penal Code and other laws and regulations criminalizing defamation, libel and slander, and ensure that any restrictions on freedom of expression are in line with the International Covenant on Civil and Political Rights (Latvia);**

137.174 **Review the provisions of the Penal Code to ensure the effective exercise of freedom of opinion and expression without fear of reprisals in accordance with international standards (Luxembourg);**

137.175 **Take further steps to protect freedom of expression by creating an environment in which the media can operate freely, without discrimination, fear of retribution, or arbitrary punishment (United States of America);**

137.176 **Respect freedom of opinion and expression, as well as freedom of association and peaceful demonstration, in particular for rights defenders (France);**

137.177 **Review the Libyan Penal Code articles limiting fundamental freedoms and release all individuals held solely for the peaceful exercise of their right to freedom of expression, assembly and association (Estonia);**

137.178 **Increase women's representation in decision-making positions (Rwanda);**

137.179 **Ensure women's participation in public, constitutional, and transitional justice processes (South Africa);**

137.180 **Take concrete measures to enhance the participation of women in political and public life, including in efforts for conflict resolution and state building (Austria);**

137.181 **Strengthen efforts in the area of development by giving priority to economic, social and cultural rights (United Arab Emirates);**

137.182 **Act on intensifying national efforts to integrate rights of persons with disabilities within the framework of the legal system according to comprehensive national programmes that respond to their needs (Bahrain);**

137.183 **Ensure the rights of minorities, particularly with regard to their full and complete political representation (Chad);**

137.184 **Ensure the security of migrants in conformity with international conventions (Chad);**

137.185 **Continue to take measures to promote and protect the rights of migrant workers even in situation of crisis (Philippines);**

137.186 **Ensure adequate human rights protection for the migrant populations residing or transiting through its borders (Rwanda);**

137.187 **Guarantee the rights of migrants, particularly those that are in transit to European countries, women and unaccompanied children (Honduras);**

137.188 **Urgently provide for the necessary immigration and asylum legislation (Uganda);**

137.189 **Redouble efforts to protect children, migrants and internally displaced persons (Costa Rica);**

137.190 **Take further steps to ensure a better protection of human rights of refugees, asylum seekers, migrants and internally displaced persons (Kazakhstan);**

137.191 **Ensure protection of the dignity of migrants, displaced persons and refugees, whether they are deprived of movement and freedom or exposed to any risk of death (Switzerland);**

137.192 **Take urgent and immediate steps to address the plight of migrants, asylum seekers, refugees and trafficked human beings in Libya, ensuring full respect for their human rights, including preventing violence against women and violence targeting members of religious communities (Canada);**

137.193 **Take all action necessary to ensure the protection of refugees and asylum seekers, including the provision of access to birth registration for all children born in Libya, and the ratification of the Convention relating to the Status of Refugees and its 1967 Protocol (New Zealand);**

137.194 **Develop a comprehensive strategy to address the needs of refugees and internally displaced persons caused by the conflict, including measures to ensure access to the birth registration of all children born in Libya, with emphasis on asylum seekers from sub-Saharan Africa (Mexico);**

137.195 **Continue its efforts in order to address the issue of internal displacement (Azerbaijan);**

137.196 **Develop a comprehensive strategy to address internal displacement; allow internally displaced persons to return to their homes and, in the interim, provide them with protection and assistance (Austria);**

137.197 **Protect those communities that have been forced to be internally displaced, and assist them in returning to their place of origin or another place selected voluntarily (Uruguay);**

137.198 **Fully protect human rights of internally displaced persons, including by giving them access to safe areas, as well as health, social and educational services without discrimination, and support, wherever possible, the voluntary and safe return of internally displaced persons to their areas of origin (Germany);**

137.199 **Intensify its efforts in fighting terrorism; and identify gaps in promotion and protection of human rights implementation and seek assistance from the international community (Ethiopia);**

137.200 **Respect the principles of human rights and the rule of law in the fight against terrorism (Sweden);**

137.201 **Continue its efforts in the fight against the terrorist gangs that perpetuate the most heinous crimes against humanity on a daily basis (Iraq);**

137.202 **Combat further terrorist groups which are destabilizing the country and are using it as logistical base for organizing many forms of trafficking and terrorist acts (Senegal).**

138. **All conclusions and recommendations contained in the present report reflect the position of the submitting States and the State under review. They should not be construed as endorsed by the Working Group as a whole.**

Annex

[English only]

Composition of the delegation

The delegation of Libya was headed by H.E. Mr. Hassan A. M. Alsghayr, Deputy Minister of Foreign Affairs & International Cooperation, and composed of the following members:

- Mrs. Sahar A. Z. BANOUN, Deputy Minister of Justice
- Mrs. ZAHA A. S. ALBARAASI, Deputy Minister of Labour and Social Affairs for women and children
- Dr. Salwa ELDAGHILI, Chargé d'affaires a.i, Permanent Mission of Libya at Geneva
- Mr. Ahmed O. O. ELHWAT, Minister Plenipotentiary, Permanent Mission of Libya at Geneva
- Mr. Naser I. S. ALZAROUG, Counsellor, Permanent Mission of Libya at Geneva
- Ms. Suaad ANBAR, Counsellor, Permanent Mission of Libya at Geneva
- Mr. Abdurrahman A. H. ELGANNAS, Counsellor, Permanent Mission of Libya at Geneva
- Mr. Adel ALAKHDER, First Secretary, Permanent Mission of Libya at Geneva
- Mr. Emad M. B. BENSHABAN, First Secretary, Permanent Mission of Libya at Geneva
- Mr. Tareq M. J. EL-AZHARY, Acting Director of the International Organizations department, Ministry of Foreign Affairs & International Cooperation
- Mr. Reda N. I. EMRAGI, Legal Department, Ministry of Foreign Affairs & International Cooperation
- Mr. Abdelhakim Masud A. SHALOUF, International Organizations department, Ministry of Foreign Affairs & International Cooperation
- Mr. Salem Mohamed Mahmoud ABAISS, International Organizations department, Ministry of Foreign Affairs & International Cooperation

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Report of the Working Group on the Universal Periodic Review*

Libya

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to United Nations translation services.

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Position of the State of Libya on the recommendations made during the twenty-second session of the Working Group on the Universal Periodic Review

1. The State of Libya reaffirms its respect for and commitment to human rights and its firm commitment to the universal periodic review, which is a mechanism for assessing progress in human rights and which provides national authorities with the opportunity to exchange best practices in that regard.

2. The acceptance by the State of Libya of a large number of recommendations reflects those commitments and the fact that the recommendations in question do not conflict with the transitional Constitutional Declaration or with Islamic sharia law. It should also be borne in mind that Libya is passing through a transitional phase involving the building of State institutions, particularly those responsible for ensuring the protection of and respect for human rights, and involving the completion of the final draft of the Constitution.

3. The following table shows the country's position on the recommendations made during the consideration of its second national report under the universal periodic review procedure. The recommendations are either accepted, partially accepted, noted or not accepted.

Table showing the position of the State of Libya on the recommendations made during the examination of its second national report under the universal periodic review mechanism

Recommendation No	*Position of the State of Libya*
137.1	Accepted
137.2	Accepted
137.3	Partially accepted, and note taken of the part concerning ratification of the Rome Statute.
137.4	Partially accepted, and note taken of the part concerning ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Rome Statute.
137.5	Accepted
137.6	Accepted
137.7	Accepted
137.8	Accepted
137.9	Noted
137.10	Noted
137.11	Noted
137.12	Partially accepted, and note taken of the part concerning ratification of the Rome Statute.
137.13	Noted
137.14	Noted

Recommendation No	*Position of the State of Libya*
137.15	Partially accepted, and note taken of the part concerning accession to the International Criminal Court.
137.16	Partially accepted, and note taken of the part concerning accession to the International Criminal Court.
137.17	Partially accepted, and note taken of the part concerning ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Rome Statute.
137.18	Accepted
137.19	Accepted
137.20	Accepted
137.21	Accepted
137.22	Accepted
137.23	Not accepted
137.24	Partially accepted. The first part, concerning the withdrawal of reservations to the Convention on the Elimination of All Forms of Discrimination against Women, is not accepted.
137.25	Accepted
137.26	Accepted
137.27	Accepted
137.28	Accepted
137.29	Accepted
137.30	Accepted
137.31	Accepted
137.32	Accepted
137.33	Accepted
137.34	Accepted
137.35	Accepted
137.36	Accepted
137.37	Accepted
137.38	Accepted
137.39	Accepted
137.40	Accepted
137.41	Accepted
137.42	Accepted
137.43	Accepted
137.44	Accepted
137.45	Accepted

Recommendation No.	*Position of the State of Libya*
137.46	Accepted
137.47	Accepted
137.48	Accepted
137.49	Accepted
137.50	Accepted
137.51	Accepted
137.52	Accepted
137.53	Accepted
137.54	Accepted
137.55	Accepted
137.56	Accepted
137.57	Accepted
137.58	Accepted
137.59	Accepted
137.60	Accepted
137.61	Accepted
137.62	Accepted
137.63	Accepted
137.64	Accepted
137.65	Accepted
137.66	Accepted
137.67	Accepted
137.68	Accepted
137.69	Accepted
137.70	Accepted
137.71	Accepted
137.72	Accepted
137.73	Accepted
137.74	Accepted
137.75	Accepted
137.76	Accepted
137.77	Accepted
137.78	Accepted
137.79	Accepted
137.80	Accepted

Recommendation No.	*Position of the State of Libya*
137.81	Accepted
137.82	Accepted
137.83	Accepted
137.84	Not accepted because it is inconsistent with Islamic sharia law.
137.85	Accepted
137.86	Accepted
137.87	Accepted
137.88	Accepted
137.89	Accepted
137.90	Accepted
137.91	Noted
137.92	Noted
137.93	Noted
137.94	Noted
137.95	Noted
137.96	Noted
137.97	Noted
137.98	Noted
137.99	Noted
137.100	Noted
137.101	Noted
137.102	Noted
137.103	Noted
137.104	Noted
137.105	Noted
137.106	Accepted
137.107	Accepted
137.108	Accepted
137.109	Accepted
137.110	Accepted
137.111	Accepted
137.112	Accepted
137.113	Accepted
137.114	Accepted
137.115	Accepted

Recommendation No	*Position of the State of Libya*
137.116	Accepted
137.117	Accepted
137.118	Accepted
137.119	Accepted
137.120	Accepted
137.121	Accepted
137.122	Accepted
137.123	Accepted
137.124	Accepted
137.125	Accepted
137.126	Accepted
137.127	Noted
137.128	Accepted
137.129	Accepted
137.130	Accepted
137.131	Accepted
137.132	Accepted
137.133	Accepted
137.134	Accepted
137.135	Noted
137.136	Noted, although the term "human trafficking" is not applicable to the phenomenon of illegal migration across Libyan territory; the correct term is "smuggling of migrants".
137.137	Noted
137.138	Noted
137.139	Noted
137.140	Accepted
137.141	Accepted
137.142	Accepted
137.143	Accepted
137.144	Accepted
137.145	Accepted
137.146	Accepted
137.147	Accepted
137.148	Accepted
137.149	Accepted

Recommendation No	*Position of the State of Libya*
137.150	Accepted
137.151	Accepted
137.152	Accepted
137.153	Accepted
137.154	Accepted
137.155	Accepted
137.156	Se rechaza.
137.157	Accepted
137.158	Partially accepted, and note taken of the part concerning ratification of the Rome Statute.
137.159	Noted
137.160	Accepted
137.161	Noted
137.162	Partially accepted, and note taken of the second part of the recommendation concerning the surrender of Saif al-Islam Qadhafi to the International Criminal Court, since appeal proceedings are still pending.
137.163	Accepted. The recommendation was implemented by means of Decree No. 119 of 2014 concerning redress for victims of sexual violence. A Victims Compensation Fund was established under Decree No. 455 and its operating procedures are regulated by Decree No. 409 of 2014 of the Minister of Justice.
137.164	Accepted
137.165	Partially accepted, and note taken of the part concerning ratification of the Rome Statute.
137.166	Accepted
137.167	Accepted
137.168	Accepted
137.169	Accepted
137.170	Accepted
137.171	Accepted
137.172	Accepted
137.173	Accepted
137.174	Accepted
137.175	Accepted
137.176	Accepted
137.177	Accepted
137.178	Accepted

Recommendation No.	*Position of the State of Libya*
137.179	Accepted
137.180	Accepted
137.181	Accepted
137.182	Accepted
137.183	Accepted, although the term "minorities" is alien to the culture of the Libyan people. The country's cultural and linguistic groups constitute the integrated and cohesive fabric of Libyan society.
137.184	Accepted
137.185	Accepted
137.186	Accepted
137.187	Accepted
137.188	Accepted
137.189	Accepted
137.190	Accepted
137.191	Accepted
137.192	Accepted
137.193	Accepted
137.194	Accepted
137.195	Accepted
137.196	Accepted
137.197	Accepted
137.198	Accepted
137.199	Accepted
137.200	Accepted
137.201	Accepted
137.202	Accepted

United Nations A/HRC/30/17

General Assembly

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Human Rights Council
Thirtieth session
Agenda item 1
Organizational and procedural matters

Election of members of the Human Rights Council Advisory Committee

Note by the Secretary-General

1. In accordance with Human Rights Council resolution 5/1, the Human Rights Council Advisory Committee, composed of 18 experts serving in their personal capacity and nominated by States Members of the United Nations following States' consultations with national human rights institutions and civil society organizations, are to be elected by the Council by secret ballot from the list of candidates whose names have been submitted in accordance with the agreed requirements.

2. The geographic distribution of members is as follows:

(a) Five from African States;

(b) Five from Asia-Pacific States;

(c) Two from Eastern European States;

(d) Three from Latin American and Caribbean States;

(e) Three from Western European and other States.

3. At its sixth session, the Human Rights Council adopted decision 6/102 on follow-up to Council resolution 5/1, in which it described the technical and objective requirements for the submission of candidatures, which include:

(a) Recognized competence and experience in the field of human rights;

(b) High moral standing;

(c) Independence and impartiality.

4. When selecting their candidates, States are requested to apply the following guidelines on technical and objective requirements for the submission of their candidates:

(a) Competence and experience:

(i) Academic studies in the field of human rights or related areas, and/or experience and exposure to leadership roles in the human rights field at the national, regional or international levels;

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(ii) Substantial experience (at least five years) and personal contributions in the field of human rights;

(iii) Knowledge of the United Nations system and of institutional mandates and policies related to the work in the area of human rights, as well as knowledge of international human rights instruments, norms and disciplines; familiarity with different legal systems and civilizations will be preferable;

(iv) Proficiency in at least one official language of the United Nations;

(v) Availability of time to fulfil the work of the Advisory Committee in an effective manner, both to attend its sessions and to carry out mandated activities between sessions.

(b) High moral standing;

(c) Independence and impartiality; individuals holding decision-making positions in Government or any other organization or entity which might give rise to a conflict of interest with responsibilities inherent to the mandate will be excluded; elected members of the Advisory Committee will act in their personal capacity;

(d) Other considerations: the principle of non-accumulation of human rights functions at the same time is to be respected.

5. In electing members of the Advisory Committee, the Human Rights Council should give due consideration to gender balance and appropriate representation of different civilizations and legal systems.

6. At its seventh session, the Human Rights Council conducted the first elections of the 18 members of the Advisory Committee. Four members were elected for a one-year term, seven for a two-year term and seven for a three-year term.

7. At its thirtieth session, the Human Rights Council will elect, in accordance with its annual programme of work, Advisory Committee members for the four vacant seats. Of the four vacancies, there is one vacancy for African States, one for Asia-Pacific States, one for Latin American and Caribbean States, and one for Western European and other States.

8. Pursuant to paragraph 71 of Human Rights Council resolution 5/1, the list of candidates is to be closed two months prior to the election date, and the secretariat is to make available the list of candidates and relevant information to Member States and the public at least one month prior to the election.

9. On 20 April 2015, the secretariat of the Human Rights Council addressed a *note verbale* to the concerned regional coordinators to encourage proposals of candidates, informing them that the deadline for submission of nominations was 22 June 2015.

10. Further to this, the secretariat received nominations of four candidates for the elections to membership of the Advisory Committee from the Governments of Argentina, Austria, Ethiopia and Saudi Arabia.

11. The nominations received are listed below; biographical data relating to the candidates are contained in the annex.*

* The annex to the present document is circulated as received, in the language of submission only.

African States

Nominating State	*Expert nominated*
Ethiopia	Imeru Tamrat Yigezu

Asia-Pacific States

Nominating State	*Expert nominated*
Saudi Arabia	Ibrahim Abdul Aziz Al Sheddi

Latin American and Caribbean States

Nominating State	*Expert nominated*
Argentina	Mario Luis Coriolano

Western European and other States

Nominating State	*Expert nominated*
Austria	Katharina Pabel

Annex*

Imeru Tamrat Yigezu (Ethiopia)

Education

1991–1992	LLM: International Environmental Law and Natural Resources; School of Oriental and African Studies, University of London (with Merit)
1983–1987	LLB: Faculty of Law, Addis Ababa University (Chancellor's Medal)

Employment history

2006–present	Managing Director, Multi-Talent Consultancy Plc
2002–2006	Freelance Consultant
1999–2002	Food Rights Campaign Coordinator, ActionAid Ethiopia
1997–1999	Head, Policy Analysis Division, Environmental Protection Authority of Ethiopia
1996–1997	Senior International Law Expert, Ministry of Water Resources
1994–1996	Head, Transboundary Water Resources Department, Ministry of Natural Resources Development and Environmental Protection (MoNRDEP)
1993–1994	International Water Law Expert, (MoNRDEP)
1988–1991	Legal Officer, Ethiopian Valleys Development Studies Authority

Key qualifications

More than 20 years professional experience as consultant in the area of natural resources and environmental management, land administration and land rights, civil society and international trade, as lecturer in water law, water rights and governance and environmental law and policy in the graduate program of the Law Faculty and College of Development Studies of the Addis Ababa University.

Long standing experience in evaluation of national, intergovernmental, civil society programs and projects.

Significant experience in working in a multicultural environment in several countries in Africa, Europe and the United States.

Significant experience as a team leader and manager of multi-country and national level consultancy projects.

Experience in providing training, capacity building and institutional development.

* Curricula vitae are issued without formal editing.

More than 8 years academic experience as a teacher in international water law, international environmental law and water rights and governance at the graduate level and supervising master's thesis.

Long standing experience as negotiator in the Nile Basin and in international environmental negotiations.

Significant experience in moderating, facilitating and conducting interactive discussions at both the national and international levels on issues of development, environment, human rights, land rights and international trade issues.

Professional experience

2012–date	Consultant, Regional and National Water Policy and Legal Framework, and Water Resources Management Project, Inter-Governmental Authority for Development (IGAD)
January–April 2012	National Land Administration and Land Rights Experts: Socio-Economic Baseline Study and Assessment of the Villagization Program in two Regional States in Ethiopia, Conducted for the Ministry of Foreign Affairs of Finland
November 2011–May 2012	Consultant, National Coordination Strategy for Multi-Stakeholder Cooperation and Collaboration on Multilateral Environmental Agreements for Ethiopia, African Union
2009–2010	Country Coordinator, Assessment of the Policy, Legal and Institutional Framework for Large-Scale Agricultural Investments in Ethiopia, World Bank
2010	Country Coordinator, Inventory of Large-Scale Agricultural Investments in Ethiopia, World Bank
2009	Country Coordinator, Land Governance Assessment Framework, World Bank
2008–2009	Coordinator, Legal and Institutional Framework for Market Competition in Ethiopia, Addis Ababa Chamber of Commerce and Sectoral Association
2008	Consultant, Regional Program for Water Education in East Africa, Austrian Development Cooperation
2007	Consultant, Country Case Study (Ethiopia): Mainstreaming Environment with a particular focus on dry-land issues, UNDP
2006	Consultant, Preparation of Social Mitigation Plan for the Humbo-Soddo Community Based Forest Regeneration Project, World Bank
2006	Legal and Institutional Specialist, Humbo-Soddo Community Based Forest Regeneration Project, World Bank
2005–2006	Team Leader, Preparation of a National Implementation Plan for Persistent Organic Pollutants, UNIDO

2004–2005	Legal and Institutional Consultant, Assessment of Enforcement, Monitoring and R&D Capacity to Manage Persistent Organic Pollutants in Ethiopia, UNIDO
2004	Intellectual Property Rights Protection of Traditional Medicinal Knowledge in Ethiopia, Ethiopian Science and Technology Commission
2003	Legal Consultant, Evaluation of the Land Administration Project of the Amhara National Regional State of Ethiopia, SIDA
2003	Member, Project Evaluation Mission: Capacity Building for Nile Basin Water Resources Management Project, FAO
2000	Member of the Ethiopian Delegation to the Resumed Session of the Extraordinary Meeting of the Conference of Parties to the Biosafety Protocol
1996–1997	Member of the Ethiopian Panel of Experts during negotiations of Nile Basin Countries to develop "Framework for Cooperation in the Nile Basin"
1995–1996	Member of the Ethiopian Delegation to the United Nations General Assembly (Sixth Committee) for the Elaboration of the "Draft Convention on the Non-Navigational Uses of International Watercourses"

Academic positions

2011	Associate Professor (part-time), Water Rights and Governance, College of Development Studies, Addis Ababa University
2007–2011	Associate Professor, Law of International Watercourses, Graduate Program, Law Faculty, Addis Ababa University
2007–2011	Associate Professor, International Environmental Law, Graduate Program, Law Faculty, Addis Ababa University
2003–2005	Associate Professor, Natural Resources and Environmental law, Graduate Program, Law Faculty, Addis Ababa University

Ibrahim Abdul Aziz Al Sheddi (Saudi Arabia)

Education

B.A., College of Arabic language, Riyadh, K.S.A., 1971

Diploma in Edu. Administration, Oklahoma University, USA, 1979

M.A in Edu. Administration, Oklahoma University, USA, 1980

Training in International Organizations, UNESCO Paris, 1983

Ph.D. in International and Regional Organizations, Mohammed Bin Saud University, K.S.A., 1995

Professional experience

1971–1979	Teacher and principal in High school
1984–2009	Secretary-General of Saudi National Commission for Education, Science and Culture (UNESCO)
1984–2009	Secretary-General of Saudi National Commission for Childhood
1989	Permanent Delegate of Saudi Arabia to UNESCO, Paris
1990–1997	Assistant Deputy Minister of Education for Cultural & International Relations
1997–2009	Deputy Minister of Education for International Affairs
2009–2013	Member of Shoura council
2008–till now	Member of Human Rights Commission

Participation in national committees

Vice-president of Saudi National Commission for (UNESCO)

Vice-president of Saudi National Commission for Childhood

Member of Higher Committee on "Riyadh, the Capital of Arab Culture, 2000"

Chairman of Committee for the Report of Saudi Arabia on the Implementation of the Convention on the Rights of the Child

Member of Scientific Committee of Jeresy Chair for Human Rights

Participation in regional and international committees

Member of the Executive Board of Arab League Educational, Cultural and Scientific Organization (ALECSO), 1992–1998, Tunis

President of the Executive Board of ALECS, 1998–2002, Tunis

Vice-Representative of Saudi Arabia to the Executive Board of UNESCO, 1996–1999, Paris

Member of the International Committee on the Rights of the Child, 2001–2005

President of Arab Permanente Committee for Human Rights 2006–2012

Participation in international conferences

Chairman of Saudi Delegation to the General Conference of UNESCO, 26th session, November 1992, Paris

Chairman of Saudi Delegation to International Education Conference, 43rd session, September 1993, Geneva

Chairman of Saudi Delegation to Regional Conferences of Arab National Commissions for UNESCO

Member of Saudi Delegation to the General Conferences of UNESCO 1983–2009 (held every two years)

Member of Saudi Delegation to the General Conferences of ALECSO 1982–2009 (held every two years)

Member of Saudi Delegation to the General Conferences of Ministers of Education in the Gulf States, 1982–2009 (held every two years)

Member of Saudi Delegation to the International Education Conference, 1984–2009, Geneva

Member of Saudi Delegation to Conference of Ministers of Culture in Islamic States, 1998, Rabat

Member of Saudi Delegation to Intergovernmental Conference on Cultural Policies for Development (Stockholm, 1998)

Member of Saudi Delegation to Conference of Ministers of Culture in the Gulf States, 1999, Sharja

Member of Saudi Delegation to Conference of Arab Ministers of Culture, 2000, Riyadh

Member of Saudi Delegation to the 2nd World Congress against Commercial Sexual Exploitation of Children 2001, Yokohama, Japan

Member of Saudi Delegation to the Second World Summit for Children, 2002, New York

In addition to participation in several regional and international seminars and meetings

Publications and studies

"Educational Plans of Regional and International Educational Organizations", a book, 1999

"Rights of the Child", a book, 2005

A number of researches and studies, such as:

"Child Welfare in Saudi Arabia"

"Rights of the Child in Saudi Arabia"

"Children Literature in Saudi Arabia"

"Child Culture"

"Computer Programs for Children"

"The Need for Supreme Council for Childhood in Saudi Arabia"

"International Convention on the Rights of the Child"

"Human Rights: International Protection Mechanisms"

"Childhood in Islam"

"Introducing Educational International and Regional Organizations"

"Saudi Arabia and Educational International and Regional Organizations"

"Educational Supervision: Concept, Mechanism"

A number of articles published in Saudi newspapers and magazines

Mario Luis Coriolano (Argentina)

Mario Luis Coriolano, argentino, es abogado, egresado de la Universidad Nacional de La Plata (UNLP), Argentina, donde obtuvo el título de Especialista en Derecho Penal y Criminología. Es profesor adjunto ordinario por concurso de oposición y antecedentes en la Cátedra de Derecho Procesal I en la Facultad de Ciencias Jurídicas y Sociales de la UNLP. Desde el año 1998, es el Titular de la Defensoría ante el Tribunal de Casación Penal de la Provincia de Buenos Aires, Argentina, cargo obtenido por concurso a través del Consejo de la Magistratura.

El candidato posee una extensa experiencia judicial, académica y cultural que ha volcado enérgicamente en la lucha contra la tortura y las condiciones degradantes de detención en el ámbito local, nacional, regional y universal. Posee una vasta experiencia en el diseño y ejecución de políticas públicas vinculadas a temas carcelarios, como así en visitas y supervisión a cárceles. Esto caracteriza su larga práctica en las relaciones con el personal policial y penitenciario, siempre con el objetivo de promover el mejoramiento de las instituciones respectivas.

En el año 2012, fue designado para integrar el Comité Asesor del Consejo de Derechos Humanos de Naciones Unidas, como experto independiente por su experiencia profesional. Los miembros son nominados por los gobiernos y elegidos por el Consejo.

El Comité suele formar grupos de trabajo, entre los cuales el Dr. Coriolano integra:

a) Grupo de redacción del estudio sobre las posibilidades de utilizar el deporte y el ideal olímpico para promover los derechos humanos, desde febrero de 2014;

b) Grupo de redacción del informe de investigación sobre el papel de los gobiernos locales en la promoción y protección de los derechos humanos, desde febrero de 2014;

c) Grupo de estudio sobre la situación de los derechos humanos de las personas con albinismo, desde febrero de 2014;

d) En septiembre de 2014, el Consejo mediante la resolución 27/30 pide al Comité Asesor que preparare un informe basado en la investigación sobre las actividades de los fondos buitres y el impacto en los derechos humanos. El mismo será presentado en marzo de 2016. El Comité Asesor estableció el Grupo de redacción sobre dicho informe, en febrero de 2015, entre los que se encuentra formando parte del mismo el Dr. Coriolano;

e) Grupo de redacción del informe de investigación sobre el Impacto negativo de la corrupción sobre los derechos humanos, desde agosto del 2013;

f) Desde el 2013 forma parte del Grupo de Trabajo sobre las Comunicaciones, que consta de cinco expertos independientes y altamente calificados y es geográficamente representativo de los cinco grupos regionales. La designación es por un período de tres años, y renovable una vez. En ese contexto, durante la primera sesión en el Comité Asesor en febrero de 2013, propuso solicitar al Consejo de Derechos Humanos para realizar una investigación sobre "Seguridad ciudadana" con un enfoque de Derechos Humanos, que fue aprobado por unanimidad.

En el año 2006, en reconocimiento de sus aptitudes personales y profesionales, fue elegido miembro del Subcomité para la Prevención de la Tortura, órgano creado ese mismo año a la luz del Protocolo Facultativo de la Convención contra la Tortura de Naciones Unidas (OPCAT). En el año 2008, fue reelegido, siendo vicepresidente de este órgano hasta el año 2012. En la etapa fundacional, el Dr. Coriolano se ha dedicado plenamente a contribuir a la construcción de un sólido sistema preventivo universal. Su visión estratégica considera el

OPCAT la pieza catalizadora faltante para complementar y reforzar a instituciones y actores existentes que han de combatir la tortura desde sus distintos ámbitos, evitando superposiciones, llenando vacíos y corrigiendo debilidades. En lo referido a la edificación de estas relaciones interinstitucionales, sus gestiones fueron decisivas para lograr el acercamiento entre el Subcomité y el Comité contra la Tortura y fue por ello designado por sus colegas para integrar el Grupo de Trabajo creado a fin de facilitar la comunicación, intercambio de información y actuación coordinada entre ambos órganos. Asimismo, se ha preocupado por establecer pautas de trabajo coordinadas entre el Subcomité y la Comisión Interamericana de Derechos Humanos (CIDH). Para ello, entre otros, impulsó una invitación al Secretario Ejecutivo de este órgano regional a una reunión de trabajo con el pleno del Subcomité en Ginebra y participó, en representación del Subcomité, en una audiencia pública y sesión plenaria convocada por la CIDH en Washington DC.

Además, el Dr. Coriolano ha priorizado el desarrollo del aspecto del mandato del SPT referido a los mecanismos nacionales de prevención (MNP) previstos bajo el Protocolo Facultativo. En este sentido, fue designado por el Subcomité para redactar pautas preliminares que orientaron las gestiones del SPT durante sus primeras visitas al terreno y sus respectivos informes y sirvieron de base para la elaboración de directrices sobre los MNP consagradas en el primer informe anual público del SPT. Igualmente, le fue encargado un documento de análisis sobre el estado de situación de los MNP en cada Estado Parte del Protocolo Facultativo para así estudiar las medidas que el SPT ha de adoptar para ayudar a los Estados a aplicar estas directrices. En contextos nacionales específicos, fue designado Punto Focal del Subcomité con el MNP de México (único Punto Focal hasta la fecha), habiendo establecido en esta calidad contacto directo y estrecho con los integrantes del MNP, además de las autoridades del Estado Parte y otros actores nacionales relevantes.

Igualmente, participó como disertante en diferentes eventos para impulsar la implantación de los MNP en Chile, Brasil, Paraguay, Bolivia, Perú, Uruguay, Honduras y Guatemala orientando y apoyando a los actores nacionales de estos procesos.

Además formó parte de las Misiones Internacionales del Subcomité a África, México, Paraguay, Honduras, Brasil donde se desempeñó como jefe de misión. Participó en el Primer Seminario Mundial sobre el OPCAT convocado por la Universidad de Bristol, Inglaterra.

En su calidad de Defensor de Casación de la Provincia de Buenos Aires, Argentina, llevó a cabo la creación y puesta en marcha de áreas de ejecución de la defensa, conformadas por un equipo de abogados especializados que atienden detenidos y visitan cárceles con el objeto de garantizar los derechos humanos de las personas privadas de su libertad. Asimismo, creó la base de datos sobre casos de torturas y otros tratos o penas crueles, inhumanos o degradantes, en el cual se registran las denuncias sobre casos de torturas en la provincia de Buenos Aires. La primera base de datos de esta naturaleza, ha sido decisiva para hacer visible la grave problemática de la tortura en la provincia de Buenos Aires y ha sido replicada en otras provincias. Así, sigue siendo utilizada por diferentes organismos de derechos humanos a nivel provincial, nacional e internacional (Centro de Estudios Legales y Sociales – CELS; Amnistía Internacional, Centro por la Justicia y el Derecho Internacional – CEJIL; Comisión Interamericana de Derechos Humanos – CIDH; entre otros). Además creó el programa integral de sistematización de información, el cual releva, el hostigamiento a defensores y casos de pruebas adulteradas.

A su vez, el Dr. Coriolano diseñó e implementó el Programa de Capacitación "Entrenamiento interdisciplinario en visitas a Unidades Carcelarias" para llevar a cabo en todo el territorio argentino. El mismo está destinado a capacitar personas de distintos sectores estatales y de la sociedad civil, a fin de perfeccionar los mecanismos de visitas que deben realizar regularmente y de manera sorpresiva para examinar las condiciones en que

se encuentran las personas privadas de libertad. Su eje central es la Convención contra la Tortura de las Naciones Unidas y su Protocolo Facultativo. El proyecto contó con la financiación de la Embajada Suiza en Argentina y el apoyo de la Asociación para la Prevención de la Tortura (APT).

En el ámbito académico, es el Director de la Cátedra Libre "Salud Pública Penitenciaria" de la Universidad Nacional de La Plata. Desde año 2.010 hasta la actualidad.

Su experiencia, que abarca las sólidas iniciativas que desarrolló y continúa desarrollando en el ámbito de sus funciones, le ha servido de la misma manera para elaborar teóricamente la dolorosa materia de su labor y volcar su pensamiento en innumerables disertaciones sobre temas de tortura y otros tratos o penas crueles, inhumanos o degradantes llevadas a cabo en eventos nacionales e internacionales, entre ellos: en Estados Unidos (2015-2014-2011-2009-2008); Brasil (2014-2012-2011-2010-2008-2007-2006-2005-2001); Honduras (2014-2012-2009); Bolivia (2007); Perú (2012-2007); Colombia (2011-2006); México (2008-2006-2005); Argentina (2005); Paraguay (2015-2012-2011-2010-2009-2008-2007-2005-2002); Uruguay (2010-2008-2004); Ecuador (2003); Canadá (2003); Costa Rica (2012-2002-1999-1998); Chile (2013-2012-2001); Guatemala (2012-2010-2009-2001); Francia (2009); España (2010-2008). Por otra parte, es autor de numerosas publicaciones de su especialidad, entre ellas "Red para la lucha contra la tortura. Implementacion del Protocolo Facultativo a la Convención contra la tortura y otros tratos o penas crueles, inhumanos o degradantes". Libro, auspiciado por el Ministerio de Justicia y Derechos Humanos, Presidencia de la Nación Argentina. (año 2013).

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty

Yearly supplement of the Secretary-General to his quinquennial report on capital punishment

Summary

The present report is submitted pursuant to resolution 26/2 of the Human Rights Council. It examines possible consequences of the imposition and application of the death penalty on the enjoyment of various human rights, including human dignity, the right to life, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, the right to a fair trial and the right to equality and non-discrimination. It also examines the impact on the enjoyment of human rights by children of parents who are sentenced to death or executed, and other individuals associated with sentenced persons, and the consequences of the lack of transparency in the imposition and application of the death penalty.

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I. Introduction

1. The Human Rights Council, in its resolution 26/2, requested the Secretary-General to dedicate the 2015 annual supplement to his quinquennial report on capital punishment to the consequences arising at various stages of the imposition and application of the death penalty on the enjoyment of the human rights of those facing the death penalty and other affected persons.

2. On behalf of the Secretary-General, in March 2015, the Office of the High Commissioner for Human Rights sent notes verbales to various stakeholders, including States, international, regional and intergovernmental bodies, national human rights institutions and non-governmental organizations, requesting relevant information to enable the Secretary-General to prepare his report. Information received has been included in the present report to the extent possible.[1]

3. The Secretary-General draws the attention of the Human Rights Council to his ninth report on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/2015/49), which finds that the marked trend towards abolition and restriction of the use of capital punishment in most countries continues. Attention is also drawn to other recent reports outlining various human rights consequences of the use of the death penalty.[2]

4. The present report examines possible consequences of the imposition and application of the death penalty on the enjoyment of various human rights, including human dignity, the right to life, the right to freedom from torture or other cruel, inhuman or degrading treatment or punishment, the right to a fair trial and the right to equality and non-discrimination. It also examines the impact on the enjoyment of human rights by children of parents who are sentenced to death or executed, and other individuals associated with sentenced persons. It further examines the human rights consequences of the lack of transparency in the imposition and application of the death penalty.

II. Consequences of the imposition and application of the death penalty on the enjoyment of the human rights of those facing the death penalty

A. Human dignity

5. The Universal Declaration of Human Rights of 1948 provides that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. The dignity of the human person is inherent in any right protected by international human rights law. Dignity lends real meaning to human rights, and as such is inherent in any right protected by international human rights law.

6. In the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which was adopted in 1989, States parties recognize that abolition of the death penalty contributes to enhancement of human

[1] All submissions are on file with the Secretariat and available for consultation.

[2] See A/63/293 and Corr.1, A/65/280 and Corr.1, A/67/226, A/69/288, A/HRC/18/20, A/HRC/21/29, A/HRC/24/18, A/HRC/27/23, E/CN.4/2006/53/Add.3, A/HRC/10/44, A/67/275 and A/67/279.

dignity. Furthermore, the General Assembly has justified, in resolutions adopted during the past eight years and supported by an increasing majority of Member States, its calls for a moratorium on executions with a view to abolishing the death penalty, by stating that the use of the death penalty undermines human dignity (see resolutions 62/149, 63/168, 65/206, 67/176 and 69/186). In its guidelines on the death penalty, the European Union considers that the death penalty constitutes a serious violation of human rights and human dignity.[3] The Community of Portuguese-speaking Countries stated that the death penalty is an intolerable and inhuman attack on human dignity and a violation of human rights.[4] Forty-two member States of the Council of Europe also pointed out that "the death penalty is an intolerable affront to human dignity, and goes hand in hand with numerous violations of the human rights of the condemned and their families".[5]

7. In their submissions relating to the present report, as well as policy statements issued at various forums, several States referred to human dignity as a key argument for the abolition of the death penalty. For instance, Albania stated that "this kind of punishment is not compatible with human rights principles and constitutes a direct insult to human dignity"; Canada viewed that "the death penalty is incompatible with respect for human dignity and the value of human life"; the Holy See explained that its abolitionist position is "framed within the proper ethical context of defending the inviolable dignity of the human person and the role of the legitimate authority to defend in a just manner the common good of society"; Namibia indicated that "the death penalty undermines human dignity, which is inherent to every human being"; Portugal noted that "it opposes the death penalty in all circumstances, as it represents an irreversible loss of the right to life and a gross violation of human rights, and it is an unjustified attack on human dignity"; and the United Kingdom of Great Britain and Northern Ireland expressed the view that "the death penalty undermines human dignity".

8. The constitutions of several countries stipulate that the death penalty undermines human dignity. For instance, the Constitution of Côte d'Ivoire recognizes the need to respect human dignity and prohibits "any punishment leading to the deprivation of human life". The Constitution of Finland states that "no one shall be sentenced to death, tortured or otherwise treated in a manner violating human dignity". The Interim Constitution of Nepal provides that "every person shall have the right to live in dignity, and no law shall provide for the death penalty".

9. A significant number of national courts have also referred to human dignity in relation to the death penalty. In *Gregg v. Georgia*, Justice Brennan of the Supreme Court of the United States of America filed a dissenting opinion stating that "the fatal constitutional infirmity in the punishment of death is that it treats members of the human race as nonhumans, as objects to be toyed with and discarded. It is thus inconsistent with the fundamental premise of the Clause that even the vilest criminal remains a human being possessed of common human dignity".[6] The Canadian Supreme Court has recognized that capital punishment constitutes a serious invasion of human dignity, and several judges expressed the opinion that the death penalty "is the supreme indignity to the individual, the ultimate corporal punishment, the final and complete lobotomy and the absolute and

[3] See www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/601_dpguidelines_/601_dpguidelines_en.pdf.

[4] Statement issued by the Community of Portuguese-speaking Countries on 5 March 2014 before the Human Rights Council (on file with the Secretariat and available for consultation).

[5] Statement issued by 42 member States of the Council of Europe on 5 March 2014 before the Human Rights Council (on file with the Secretariat and available for consultation).

[6] See https://law.resource.org/pub/us/case/reporter/US/428/428.US.153.74-6257.

irrevocable castration".[7] The Hungarian Constitutional Court has held that capital punishment imposes a limitation on the essential content of the fundamental rights to life and human dignity, eliminating them irretrievably. The Court stressed the relationship between the rights to life and dignity, and the absolute nature of these two rights, which together were the source of all other rights.[8] In the *Makwanyane* case, the South African Constitutional Court found that the death penalty was unconstitutional and observed that "the rights to life and dignity are the most important of all human rights and the source of all other personal rights ... By committing ourselves to a society founded on the recognition of human rights we are required to value these two rights above all others. And this must be demonstrated by the State in everything that it does, including the way it punishes criminals".[9]

B. Right to life

10. Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life, liberty and security of person, while article 6 (1) of the International Covenant on Civil and Political Rights provides that every human being has the inherent right to life, which is to be protected by law, and that no one is to be arbitrarily deprived of his life. In its general comment No. 6 (1982) on the right to life, the Human Rights Committee described the right to life as the supreme right. The Special Rapporteur on extrajudicial, summary or arbitrary execution referred to it as "the ultimate metaright, since no other right can be enjoyed without it" (see A/67/275, para. 12) and "the most important and basic of human rights. It is the fountain from which all human rights spring. If it is infringed, the effects are irreversible" (see E/CN.4/1983/16, para. 22).

11. More than 40 years ago, in December 1971, the General Assembly, in its resolution 2857 (XXVI), stated that in order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued was that of progressively restricting the number of offences for which capital punishment might be imposed, with a view to the desirability of abolishing that punishment in all countries. The international move towards abolition gained new impetus with the adoption in 1989 of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which to date has been ratified by 81 States.

12. The drafters of the International Covenant on Civil and Political Rights already paved the way towards the abolition of the death penalty in 1966 by mentioning the death penalty as an exception to the right to life, which should in no way be "invoked to delay or to prevent the abolition of capital punishment" (art. 6 (6)) and by establishing stringent conditions under which it could be used. Trends with regard to the implementation of the stringent conditions contained in article 6 (2–5) can be gleaned from recent quinquennial and annual reports of the Secretary-General on the use of the death penalty (see, for example, E/2010/10 and E/2015/49).

13. The Council of Europe has adopted two instruments prohibiting the use of capital punishment: protocols No. 6 (1983) and No. 13 (2002) to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty. Article 2 of the Charter of Fundamental Rights of the European Union also provides that no one shall be condemned to the death penalty, or executed. The Protocol to

[7] See http://scc-esc.lexum.com/scc-esc/scc-esc/en/item/785/index.do.
[8] See www.mkab.hu/letoltesek/en_0023_1990.pdf.
[9] See https://h2o.law.harvard.edu/collages/12436.

the American Convention on Human Rights to Abolish the Death Penalty was adopted in 1990. While the African Charter on Human and Peoples' Rights, which was adopted in 1981, does not make any specific reference to the death penalty, the African Commission is in the process of developing an optional protocol to the Charter on the abolition of the death penalty in Africa.

14. About half of the 102 countries and territories in the world that, to date, have abolished the death penalty for all crimes, enshrined its prohibition in their constitutions, often making explicit the link with the rights to life and physical integrity.[10] For instance, the Constitution of Armenia states that "everyone shall have a right to life", and "no one shall be condemned to the death penalty or executed"; the Constitution of the Plurinational State of Bolivia provides that "every person has the right to life and physical, psychological and sexual integrity" and "the death penalty does not exist"; the Constitution of Cambodia holds that "everybody shall have the right to life, freedom and personal security. Capital punishment is prohibited"; the Constitution of Colombia stipulates that "the right to life is inviolable" and "there will be no death penalty"; the Constitution of Côte d'Ivoire states that "the rights of the human person are inviolable" and "any punishment leading to the deprivation of human life is forbidden"; the Constitution of Honduras states that "the right to life is inviolable, and the death penalty is prohibited"; and the Constitution of Kyrgyzstan states that "everyone shall have an inalienable right to life" and "no one may be arbitrarily deprived of life; the death penalty is prohibited".

15. Furthermore, several national courts have found the death penalty to violate the right to life. The Albanian Constitutional Court abrogated the death penalty as incompatible with its 1998 Constitution, stating that "the death penalty is a denial of the right to life and constitutes inhuman and cruel punishment".[11] The Hungarian Constitutional Court declared that the death penalty violates the "inherent right to life" provided under article 54 of the country's Constitution, and thereby abolished the death penalty for all crimes in Hungary.[12] The Constitutional Court of Lithuania declared that the Criminal Code provision on the death penalty contradicted the Constitution, which stipulates that the right to life shall be protected by law.[13] The South African Constitutional Court also used the right to life argument as reasoning for declaring that the death penalty violated the Constitution.[14] The Constitutional Court of Ukraine declared the death penalty unconstitutional and the laws providing for it void, by referring to the right to life. It noted that, unlike the International Covenant on Civil and Political Rights, the Ukrainian Constitution does not explicitly allow for the death penalty as an exception to the right to life.[15] Several other States have also referred to the right to life as key for the abolition of the death penalty (see, for example, A/63/293, para. 17 and A/HRC/27/26, para. 25).[16]

16. With regard to States in which the death penalty is still used, international human rights law, including article 6 (2) of the International Covenant on Civil and Political Rights, "imposes stringent requirements that must be met for judicial killing not to be regarded as an arbitrary deprivation of life and therefore unlawful" (see A/67/275, para. 13). Article 6 (2) of the Covenant requires that, in countries that have not yet abolished the death penalty, the application of the death penalty be limited to the "most

[10] For a discussion on how the death penalty violates the right to life, see Hugo Adam Bedau, "Capital Punishment and the Right to Life", *Michigan State Law Review*, vol. 2011, No. 3, pp. 505–522.
[11] See www.deathpenaltyproject.org/legal-resources/authorities-database/search/?id=1111.
[12] See www.deathpenaltyproject.org/legal-resources/authorities-database/search/?id=1175.
[13] See www.deathpenaltyproject.org/legal-resources/authorities-database/search/?id=1113.
[14] See www.saflii.org/za/cases/ZACC/1995/3.html.
[15] See www.codices.coe.int/NXT/gateway.dll/CODICES/full/eur/ukr/eng/ukr-2000-1-003.
[16] The original contributions are on file with the Secretariat and are available for consultation.

serious crimes". This term has been interpreted to mean that the death penalty should only be applied to the crime of intentional killing. The Human Rights Committee has repeatedly stressed that the use of the death penalty for drug-related crimes does not meet the threshold of the most serious crimes.[17] However, the death penalty continues to be applied in 33 countries or territories for drug-related crimes. Some States also continue to use the death penalty for other crimes or acts not involving intentional killing, such as consensual sexual acts, economic and political crimes, robbery, blasphemy, witchcraft and sorcery.

17. The Human Rights Committee has also concluded that mandatory death sentences are not compatible with the most serious crimes. According to the Human Rights Committee, laws that impose the death penalty without any possibility of the defendant's personal circumstances or the circumstances of the particular offence being taken into account constitute violations of the right to life under the Covenant.[18] The Inter-American Court of Human Rights[19], the African Commission on Human and Peoples' Rights[20] and the national courts in Bangladesh,[21] India,[22] Kenya[23], Malawi[24] and Uganda[25] have also declared that the mandatory death penalty is incompatible with the right to life.

18. The prohibition of executions for crimes committed by persons under the age of 18 is provided in several international and regional human rights treaties, in particular in article 6 of the International Covenant on Civil and Political Rights and article 37 of the Convention on the Rights of the Child. The prohibition on the execution of pregnant women is also set out in article 6 of the International Covenant on Civil and Political Rights. In its resolution 69/186, the General Assembly calls on all States not to impose capital punishment for offences committed by persons below 18 years of age, on pregnant women or on persons with mental or intellectual disabilities. Moreover, in its resolution 1989/64, the Economic and Social Council recommended that States establish a maximum age beyond which a person may not be sentenced to death or executed.

C. Right to a fair trial

19. The death penalty may be carried out only pursuant to a final judgement rendered by a competent court after a legal process that provides all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of, or charged with, a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

20. In July 2007, the Human Rights Committee adopted its general comment No. 32 (2007) on article 14: right to equality before the courts and tribunals and to a fair trial,

[17] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15792&LangID=E.

[18] See, inter alia, communications No. 1520/2006, *Mwamba v. Zambia*, Views adopted on 10 March 2010, para. 6.3; No. 1132/2002, *Chisanga v. Zambia*, Views adopted on 18 October 2005, para. 7.4; No. 845/1998, *Kennedy v. Trinidad and Tobago*, Views adopted on 26 March 2002, para. 7.3; and No. 2177/2012, *Johnson v. Ghana*, Views adopted on 27 March 2014, para. 7.3.

[19] See www.cidh.oas.org/demandas/12.480%20Lennox%20Boyce%20et%20al%20Barbados%2014%20dec%202006%20ENG.pdf.

[20] See www.achpr.org/communications/decision/240.01/.

[21] See www.supremecourt.gov.bd/web/documents/808470_CivilAppealNo.116of2010.pdf.

[22] See www.lawyerscollective.org/files/IHRN%20judgment.pdf and http://indiankanoon.org/doc/166513655/.

[23] See http://kenyalaw.org/Downloads_FreeCases/76411.pdf.

[24] See www.eji.org/files/Kafantayeni%20v.%20Attorney%20General.pdf and *Jacob v. The Republic*, criminal appeal No. 18 of 2006 (judgement on file with the Secretariat and available for consultation).

[25] See www.ulii.org/ug/judgment/constitutional-court/2005/8.

which details State parties' obligations under article 14 of the International Covenant on Civil and Political Rights, and reaffirms that scrupulous respect of the guarantees of a fair trial is particularly important in trials leading to the imposition of the death penalty, and that, therefore, the imposition of a death sentence following a trial in which the provisions of article 14 of the Covenant have not been respected constitutes a violation of the right to life.

21. The death penalty is of particular concern when imposed by military courts and tribunals, especially on civilians. The Working Group on Arbitrary Detention has concluded that military justice systems should be prohibited from imposing the death penalty under all circumstances (see E/CN.4/1999/63, para. 80).

22. Recently, a new phenomenon of sentencing large groups of individuals in mass trials has emerged and led to major concerns that such mass trials violate international human rights standards regarding fair trial guarantees. In particular, those trials appear to have been marred by procedural irregularities, including a lack of adequate, timely access to lawyers and instances of trials in absentia, and a lack of respect for the presumption of innocence (see A/HRC/27/23 and Corr.1, paras. 43–53). Pursuant to general comment No. 32 (2007) of the Human Rights Committee, the presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with that principle.

23. Effective assistance by defence counsel is an important element in the right to a fair trial in capital cases. Article 14 (3) (d) of the International Covenant on Civil and Political Rights requires States parties to provide legal assistance to indigent defendants "in any case where the interests of justice so require". The Human Rights Committee has observed that "it is axiomatic that legal assistance be available in capital cases" and concluded that "the absence of counsel constituted unfair trial".[26] The Committee against Torture has also urged States parties to guarantee effective assistance by legal counsel for death row inmates at all stages of proceedings.[27] In December 2012, the General Assembly adopted the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, recognizing the right to legal aid for persons facing the death penalty at all stages of the criminal justice process.[28]

24. Article 6 (4) of the International Covenant on Civil and Political Rights states that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. It also states that amnesty, pardon or commutation of the sentence of death may be granted in all cases. Therefore, national laws must provide the possibility of, and corresponding procedure for, granting amnesty, pardon and commutation of death sentences for humanitarian and other reasons.

[26] See communications No. 223/1987, *Robinson v. Jamaica*, Views adopted on 30 March 1989, paras. 10.3–12 and No. 1096/2002, *Kurbanov v. Tajikistan*, Views adopted on 6 November 2003, para. 6.5.

[27] See CAT/C/JPN/CO/2, para. 15.

[28] See General Assembly resolution 67/187, annex, para. 20.

D. Right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment

25. In his 2009 report, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment explored whether the death penalty was compatible with the prohibition of cruel, inhuman or degrading punishment under international law (A/HRC/10/44). He noted that the interpretation of legal provisions was subject to change over time, as had been the case with the prohibition of corporal punishment. The prohibition of corporal punishment had evolved to the point that it was now considered a direct assault on the dignity of a person and should be qualified by all relevant human rights bodies as cruel, inhuman or degrading punishment. He concluded that maintaining the distinction between a dynamic interpretation that finds that corporal punishment is prohibited, while upholding that capital punishment is compatible with international law, was increasingly difficult.

26. The Special Rapporteur has concluded that "a new approach is needed as there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so" (see A/67/279, para. 74).

27. In examining whether the death penalty per se violates the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, recent jurisprudence should be taken into consideration. For example, in 2013, the European Court of Human Rights ruled that "whole life" sentences with no possibility of review and no prospect of release constituted inhuman and degrading treatment and punishment, and were in breach of the prohibition of torture and ill-treatment.[29]

28. In statements before various international forums, several States and regional bodies have indicated that the death penalty is a violation of the prohibition of torture or other cruel, inhuman and degrading treatment or punishment. Bulgaria stated that it considered the death penalty to be an extreme form of physical and psychological violence for human beings and as such, it constituted cruel, inhuman and degrading treatment or punishment. Denmark expressed the view that the death penalty was brutal and inhuman, no matter how cruel the offence. Finland considered the death penalty a cruel and inhuman form of punishment. Italy classified capital punishment as inhuman treatment. Mongolia justified the abolition of capital punishment by referring to the degrading character of the death penalty. Slovenia considered that the death penalty constituted cruel, inhuman and degrading treatment and a violation of international law. Spain held that the death penalty was cruel and inhuman treatment. The European Union stated that it found the death penalty to be cruel and inhuman, representing an unacceptable denial of human dignity and integrity.[30]

29. National courts have also expressed similar views. For instance, in the case of *People v. Anderson*, California Supreme Court in the United States of America found that "the cruelty of capital punishment lies not only in the execution itself and the pain incident thereto, but also in the dehumanizing effects of the lengthy imprisonment prior to execution during which the judicial and administrative procedures essential to due process of law are

[29] See http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-122664#{%22itemid%22:[%22001-122664%22]}

[30] Copies of the relevant statements are on the file with the Secretariat and are available for consultation.

carried out. Penologists and medical experts agree that the process of carrying out a verdict of death is often so degrading and brutalizing to the human spirit as to constitute psychological torture".[31] In 2001, in the case *United States v. Burns*, the Canadian Supreme Court stated that capital punishment engaged the underlying values of the prohibition against cruel and unusual punishment.[32] Furthermore, the Constitutional Courts of Albania, Hungary, Lithuania, South Africa and Ukraine have also found that the death penalty per se violates the prohibition of cruel, inhuman or degrading treatment.

30. States that still use the death penalty do not have unfettered discretion in deciding about the manner in which it is carried out. They should comply with requirements emanating from the absolute prohibition of torture and other cruel, inhuman or degrading treatment under international human rights law. In practice, capital punishment today often leads to violations of this prohibition, either because of the death row phenomenon, or the method of execution.

31. The Secretary General and special procedures mandate holders have extensively discussed this issue in recent reports. They have described circumstances that generally go hand in hand with the death row phenomenon, including the lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and the physical conditions in which some inmates are held. The Human Rights Committee has recognized the death row phenomenon as a possible breach of article 7 of the International Covenant on Civil and Political Rights.[33] Several regional courts have also confirmed the existence and destructive nature of the death row phenomenon.[34]

32. The Human Rights Committee, in its general comment No. 20 (1992) on article 7 (prohibition of torture or other cruel, inhuman or degrading treatment or punishment) also recognized that, when the death penalty is imposed, it must be carried out in a manner that causes "the least possible physical and mental suffering" (para. 6). Having examined relevant international, regional and national jurisprudence on various methods of execution, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concluded that there was a growing trend towards scrutiny of all methods of execution that had to date been considered as not causing severe pain and suffering. He found no categorical evidence that any method of execution currently in use complied with the prohibition of torture and cruel, inhuman or degrading treatment. Even if the required safeguards (Economic and Social Council resolution 1984/50, annex) were respected, all methods of execution currently used could inflict inordinate pain and suffering (see A/67/279, paras. 31–40).

E. Right to equality and non-discrimination

33. Non-compliance with the right to equality and non-discrimination is a major concern when considering the application of the death penalty. In practice, the decision whether to sentence a convict to death or life imprisonment is often arbitrary and devoid of predictable

[31] See www.courtlistener.com/opinion/1260876/people-v-anderson/

[32] See http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1842/index.do

[33] See, for example, communication No. 470/1991, *Kindler v. Canada*, Views adopted on 30 July 1993, para. 6.4.

[34] See, for example, http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57619#{%22itemid%22:[%22001-57619%22]}, para. 111, and www.corteidh.or.cr/docs/casos/articulos/seriec_93_ing.pdf.

rational criteria. A number of studies demonstrate that the death penalty is frequently used in a discriminatory manner.[35]

1. Gender discrimination

34. At least 10 States continue to impose and carry out the death penalty in connection with actual or purported engagement in consensual sexual acts, such as adultery and sodomy. As stated by the Human Rights Committee and other human rights mechanisms, laws criminalizing actual or purported engagement by adults in consensual sexual relations, including illicit sex, contravene international human rights law (see A/HRC/29/40).[36] Although the language of such laws may appear not to directly discriminate against women, in practice, their application and enforcement often disproportionately affect women's enjoyment of their rights (see A/HRC/27/23, para. 33). Studies have demonstrated that women are more likely to be sentenced to death for such crimes, owing to deeply entrenched discriminatory societal attitudes and bias against women suspected of adultery or of engaging in extramarital relationships among the judiciary and law enforcement officers.[37]

35. Imposition of the death penalty for offences relating to consensual adult homosexual conduct continues to be provided for in the legislation of a number of States. As a result, men, women and transgender persons have been sentenced to death. While no cases of executions for consensual same-sex conduct have been confirmed in recent years, the mere existence of such laws has an intimidating effect on all lesbian, gay, bisexual, transgender and intersex persons and, as in other places where homosexual relationships are criminalized, reinforces stigma and fuels discrimination and violence against anyone perceived to be lesbian, gay, bisexual, transgender or intersex. Several human rights treaty bodies have expressed concern at the fact that homosexuality is a crime punishable by death in some countries, and have concluded that such punishment violates the provisions of the International Covenant on Civil and Political Rights (see CCPR/C/MRT/CO/1, para. 8, and E/C.12/IRN/CO/2, para. 7). The European Union guidelines on the death penalty emphasize that the death penalty must not be applied or used in a discriminatory manner on any ground, including sex or sexual orientation.

2. Minorities and other marginalized groups

36. Persons belonging to religious and other minorities are frequently exposed to increased risks of criminalization. In some jurisdictions, criminal law specifically targets members of religious minorities or persons practising religions or beliefs that are different from the predominant religious or traditional belief of the country. Reportedly, in 13 countries around the world, people who openly espouse atheism or reject the official State religion face execution under the law.[38] Criticism of religious faith or even academic study of the origins of religions is treated as a crime in these jurisdictions. Furthermore, when manifesting their religions or beliefs, persons belonging to minorities run the risk of being accused of blasphemy, a charge which in some countries carries harsh sanctions, even the death penalty (see A/HRC/22/51, para. 53). In some States, individuals who converted from one religion to another have been arrested and sentenced to death, and national laws

[35] See www.ohchr.org/Documents/Issues/DeathPenalty/MovingAwayDP.pdf, chap. 3.

[36] See also CCPR/C/79/Add.25, para. 8; CCPR/C/79/Add.85, para. 8 and Human Rights Council resolutions 2007/77 and 2005/59.

[37] See http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/04/SGreportDeathPenalty-AnalysisBrief-2014.pdf.

[38] See https://drive.google.com/file/d/0B3gXFZt5sXX1aDJLblBMbjBxd0E/view.

make the death penalty mandatory for apostates.[39] In accordance with international human rights jurisprudence, apostasy, blasphemy and specific religious practices do not meet the most serious crimes threshold.[40] It appears that the racial or ethnic origin of the victim and of the defendant in capital cases is also a major factor in determining who is sentenced to death in some States. Recent studies document racial discrimination in the death penalty system in the United States of America, and show that this problem, which persists unabatedly, is not restricted to a single region of a country.[41]

3. Foreign nationals

37. According to estimates, nationals of at least 50 States are currently on death row or have recently been executed abroad, and reports suggest that foreign nationals may be disproportionately affected by the death penalty in several States (see A/HRC/27/23, para. 55 and A/HRC/24/18, para. 74). International standards and safeguards relating to death penalty cases should apply equally to persons facing the death penalty abroad. However, such persons often face discrimination: they can be arbitrarily and disproportionately affected by the death penalty because they are not familiar with the laws and procedures in the prosecuting State. They may have limited access to legal aid and inadequate and low quality legal representation. They may not understand and speak the language in which proceedings are conducted, in particular when denied the free assistance of an interpreter, which is required under article 14 (3) (f) the International Covenant on Civil and Political Rights. They are also less likely to have a support network of family and friends.[42]

38. Access to consular assistance for foreign nationals is an important aspect of the protection of those facing the death penalty abroad. The Inter-American Court of Human Rights has ruled that the denial of the right to consular notification constitutes a violation of due process, and that the execution of a foreign national deprived of his or her right to consular services constitutes an arbitrary deprivation of life, in contravention of article 4 of the American Convention on Human Rights and articles 6 and 14 of the International Covenant on Civil and Political Rights.[43] The requirement that foreign nationals must be informed of their rights without delay after their arrest has been confirmed by the International Court of Justice.[44]

4. Poor or economically less privileged individuals

39. Poor or less privileged individuals who do not have access to effective legal representation are frequently disproportionately subjected to the death penalty. In many States, the most important factor in determining whether a defendant will be sentenced to death is the quality of the legal representation of an accused person. Around the world, a large number of defendants in capital cases cannot afford to pay their own lawyers. In many cases, Government-appointed defence lawyers are overworked, underpaid and lack the experience required for death penalty cases. The Special Rapporteur on extrajudicial, summary or arbitrary executions pointed out that failure to provide adequately funded state-wide public defenders had the predictable result of inadequate legal representation for

[39] See, for example, CCPR/C/IRN/CO/3, para. 23, E/CN.4/1994/7, para. 475, and E/CN.4/1998/6, para. 62.

[40] See, for example, CCPR/C/79/Add.85, para. 8.

[41] See www.deathpenaltyinfo.org/death-penalty-black-and-white-who-lives-who-dies-who-decides#Executive Summary.

[42] Penal Reform International, *Strengthening death penalty standards* (London, 2015), p. 17.

[43] See www1.umn.edu/humanrts/iachr/b_11_4p.html.

[44] See www.icj-cij.org/docket/files/128/8188.pdf.

defendants in capital cases (see A/HRC/11/2/Add.5). In a recent judgement, the Supreme Court of India referred to poverty as a new mitigating factor to commute a convict's death penalty to life imprisonment. It stated that socioeconomic compulsions such as poverty were factors that should be considered by Courts while awarding a death sentence.[45] Research into death row prisoners in India has found that the overwhelming majority of the convicted individuals are poor and from lower castes.[46]

III. Consequences arising at various stages of the imposition and application of the death penalty for the enjoyment of the human rights of other affected persons

A. Children of parents sentenced to death or executed

40. The negative impact on the human rights of children whose parents are subject to the imposition and execution of the death penalty has received increasing attention.[47] In its resolution 68/147 on the rights of the child, adopted in 2013, the General Assembly acknowledges that a parent's deprivation of liberty, sentencing to death or life imprisonment has a serious impact on children's development, and urges States, in the framework of their national child protection efforts, to provide the assistance and support those children may require. Also in 2013, the Human Rights Council adopted resolution 22/11 on a panel on the human rights of children of parents sentenced to the death penalty or executed. In September 2013, at the panel organized by the Council, experts highlighted a number of negative short- and long-term effects of a parent's death sentence on his or her children, including infringement of the enjoyment of a range of rights and obligations set out in the Convention on the Rights of the Child. These included, in particular, the obligation to ensure that the best interests of the child are duly taken into account and protected (art. 3); the right to be free from violence, in particular mental violence (art. 19); the right to special protection and assistance provided by the State when a child is deprived of his or her family environment (art. 20); and the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (art. 27 (1)) (see A/HRC/25/33).

41. In October 2013, the Committee on the Rights of the Child recommended that Kuwait assess and fully take into account the best interests of the child in judicial proceedings where parents are involved and when sentencing parents to death (see CRC/C/KWT/CO/2, para. 32).

42. In her recent report to the Human Rights Council, the Special Rapporteur on the independence of judges and lawyers expressed concern that, despite the particular emotional and psychological distress of children whose parents were sentenced to death — who also often experienced social isolation and stigmatization — the support they were given was very limited. She therefore recommended that prosecutors and judges consider the best interests of the defendant's children before requesting and ordering the death penalty (see A/HRC/29/26, para. 77).

[45] See http://judis.nic.in/supremecourt/imgs1.aspx?filename=40836.
[46] See www.outlookindia.com/article/most-death-row-convicts-are-poor/292798.
[47] See www.ohchr.org/EN/NewsEvents/Pages/HiddenVictims.aspx.

B. Defence lawyers

43. The welfare and mental health of lawyers can be negatively affected by participating in a case involving the death penalty, in particular when a client is executed. Recommendation R (2000) 21 of the Committee of Ministers of the Council of Europe to member States on the freedom of exercise of the profession of lawyer states that bar associations should promote the welfare of members of the profession and assist them or their families if circumstances so require (principle V (4) (e)).

44. In accordance with the Basic Principles on the Role of Lawyers, lawyers' access to their clients and confidentiality between lawyers and their clients are essential rights of the accused.[45] These may be restricted in practice in cases involving the death penalty if the person sentenced to death is in a prison that is not easy to access for the lawyer or in which there are restrictions on all visitors.

45. Defence lawyers are crucial stakeholders in any death penalty related process, particularly post-conviction lawyers who attempt to stop an execution. The looming threat of execution and the fact that the life or death of a client depends on the lawyer's intervention put enormous pressure on the lawyer. In addition, the number of lawyers who are experienced and knowledgeable in this area is insufficient to meet the number and needs of persons convicted to the death sentence.[46] Reportedly, strong public support for the death penalty and a corresponding lack of respect for lawyers who represent people on death row pose additional challenges.[47]

C. Prison officials, including medical personnel

46. Some prison officials who have participated in overseeing prisoners sentenced to death or executions have reported negative effects on their mental health, in some cases experiencing symptoms consistent with post-traumatic stress disorder or becoming isolated and withdrawn. Somewhat similar concerns may emerge in cases in which prison officials involved in overseeing death rows or executions are discouraged from quitting through ridicule, bullying or demotion.[51]

47. Around the world, medical associations have questioned to what extent their members, whose professional ethics require them to be healers and not executioners, may be involved in the implementation of the death penalty. This issue arises regularly, but not exclusively, in the case of lethal injections, where States expect medical personnel to participate in the administration of lethal drugs and monitoring of the onset of death. A global study found that "virtually all codes of professional ethics which consider the death penalty oppose medical or nursing participation. Despite this, many death penalty States have regulations specifying that health professionals be present at executions".[52] It is clearly established under international law and codes of medical ethics that physicians and other medical personnel should not participate in torture or other cruel, inhuman or degrading treatment or punishment. For example, the Principles of Medical Ethics relevant to the Role

[45] See, for example, principles 8, 16 and 22.

[46] See Susannah Sheffer, *Fighting for Their Lives: Inside the Experience of Capital Defense Attorneys* (Nashville, Tennessee: Vanderbilt University Press, 2013).

[47] Submission from Penal Reform International dated 13 May 2015 (on file with the Secretariat and available for consultation).

[51] Penal Reform International, "Prison guards and the death penalty" (London, 2015), p. 3. Available at www.penalreform.org/wp-content/uploads/2015/04/PRI-Prison-guards-briefing-paper.pdf.

[52] Amnesty International, "Execution by lethal injection: A quarter century of state poisoning", October 2007, p. 3.

of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 37/194, includes such a provision. The Special Rapporteur on extrajudicial, summary or arbitrary executions observed that, from the perspective of ethics, given that medical personnel should not help to torture, they should not be asked to assist with executions, at least not where such executions might violate international law. States should be cognizant of those considerations when they called for the presence or assistance of medical personnel when administering the death penalty (see A/67/275, para. 97).

IV. Consequences of the lack of transparency in the application and imposition of the death penalty on the enjoyment of human rights

48. In its resolution 1989/64, the Economic and Social Council set out minimum requirements of transparency. It called upon all Member States to publish annually information about the use of the death penalty for each category of offence for which the death penalty is authorized, as well as information about the use of the death penalty. The information should include the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted. Information on the extent to which the safeguards referred to in the resolution are incorporated in national law should also be included. The lack of transparency has direct consequences for the human rights not only of the persons sentenced to death, but also for other affected persons.

A. Right to a fair trial and due process

49. Transparency is fundamental to the administration of justice. A transparency safeguard is contained in article 14 (1) of the International Covenant on Civil and Political Rights. The Human Rights Committee observed that transparency "is a duty upon the State that is not dependent on any request by the interested party".[51]

50. The Special Rapporteur on extrajudicial, summary or arbitrary executions has emphasized that "transparency is the surest safeguard of fairness … Over time, punishment imposed by Governments has come to replace private acts of retribution. This has rationalized the disposition of justice, yet it has also introduced the possibility of more systematic arbitrariness. The extraordinary power conferred on the State — to take a person's life using a firing squad, hanging, lethal injection, or some other means of killing — poses a dangerous risk of abuse. This power may be safely held in check only by public oversight of public punishment. It is a commonplace that due process serves to protect defendants. However, due process is also the mechanism through which society ensures that the punishments inflicted in its name are just and fair" (see E/CN.4/2006/53/Add.3, para. 7).

[51] See communication No. 215/1986, *Van Meurs v. the Netherlands*, Views adopted on 13 July 1990, para. 6.1.

B. Prohibition of torture and other cruel, inhuman and degrading treatment

51. As illustrated by the Views of the Human Rights Committee in two cases, for a convict and his or her family, a lack of transparency in what is already a harrowing experience — waiting for one's execution — can result in inhuman or degrading treatment or punishment within the meaning of article 7 of the International Covenant on Civil and Political Rights. In relation to an individual complaint submitted by the mother of an executed prisoner, the Committee found that "the complete secrecy surrounding the date of execution and the place of burial and the refusal to hand over the body for burial have the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress".[54] This amounts to inhuman treatment in violation of article 7 of the Covenant. In another case, the Committee found that the delay of approximately 20 hours before communicating a reprieve to the accused just 45 minutes prior to his scheduled execution constituted a violation of article 7 of the Covenant.[55]

52. The Committee against Torture has also expressed deep concern over the unnecessary secrecy and uncertainty surrounding executions. It noted that refusing to provide advance notice of the date and time of execution to convicted persons and their family members was a clear human rights violation (see, for example, CAT/C/JPN/CO/2, para. 15).

C. Right to information

53. The Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that article 14 of the International Covenant on Civil and Political Rights addresses not only the rights of accused persons but also the public's right to information on the use of the death penalty. States have a duty to make information on the death penalty publicly available (see E/CN.4/2006/53/Add.3, para. 12). The Special Rapporteur has stated that article 19 of the Covenant also generates transparency requirements in recognizing not only freedom of expression but also public access to information (see A/65/275, para. 108). In *Toktakunov v. Kyrgyzstan*, the Human Rights Committee found that information about a State's use of the death penalty was of public interest.[56] The Committee consequently recognized a general right to gain access to that information deriving from article 19. The idea of a public right to information finds further support in the emergence of a right to truth. In the context of the death penalty, this would create the public's right to the information needed to establish whether deprivation of life is arbitrary or lawful (see A/67/275, paras. 108 and 109).

54. In its resolution 69/186 on moratorium on the use of the death penalty, the General Assembly called upon all States to make available relevant information, which can contribute to informed and transparent national and international debates, including on the obligations of States pertaining to the use of the death penalty. The lack of reliable information is also a serious impediment to scrutiny by the international human rights system. In some cases, not having advance knowledge of an imminent execution makes examining questions of lawfulness before an execution and advising about obligations under international law impossible.

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[54] See communications No. 886/1999, *Schedko v. Belarus*, Views adopted on 3 April 2003, para. 10.2, and No. 887/1999, *Staselovich v. Belarus*, Views adopted on 3 April 2003, para. 9.2.

[55] See communication No. 210/1986, *Pratt and Morgan v. Jamaica*, Views adopted on 6 April 1989, para. 13.7.

[56] See communication No. 1470/2006, *Toktakunov v. Kyrgyzstan*, Views adopted on 28 March 2011.

V. Conclusions and recommendations

55. As the Secretary-General has noted on several occasions, the death penalty has no place in the twenty-first century. In the light of the evolution of international human rights law and jurisprudence and State practice, the imposition of the death penalty is incompatible with fundamental tenets of human rights, in particular human dignity, the right to life and the prohibition of torture or other cruel, inhuman or degrading treatment or punishment. The application of the death penalty often also violates the right to equality and the principle of non-discrimination. The decision about whether to sentence a convict to death or to lesser punishment is often arbitrary and does not necessarily follow predictable, rational criteria. In that judicial lottery, the odds are often stacked against the poor, minorities and other common targets of discrimination, including women, foreign nationals and lesbian, gay, bisexual, transgender and intersex persons.

56. All measures aimed at ending the application of the death penalty are steps towards the enjoyment of the right to life. In its article 6, the International Covenant on Civil and Political Rights, adopted in 1966, referred to the abolition of the death penalty in terms that strongly suggest that it is desirable. In 1989, by adopting the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, States enshrined their stronger abolitionist stance in international law. The Secretary-General reiterates his call for universal ratification of the Second Optional Protocol, and urges those States that have not yet ratified it to do so without delay.

57. The 70 years since the United Nations came into being have seen a remarkable shift from a large majority of Member States that maintained the death penalty to, nowadays, a minority. Since 1997, the General Assembly has adopted five resolutions that called on States to establish a moratorium on executions with a view to abolishing the death penalty. Currently, approximately 160 of the 193 Member States of the United Nations have abolished the death penalty or introduced moratoriums, either in law or in practice. States should go beyond simply ceasing executions and aim for a suspension of capital punishment for all who might be, or have been, sentenced to death. National prosecutors may consider refraining from seeking the death penalty. Judges may consider not imposing it. In this regard, the highest judicial bodies could issue judicial directives or sentencing guidelines, as appropriate.

58. The continued lack of transparency on the part of some Governments concerning the numbers of persons who have been executed is incompatible with human rights. States should refrain from carrying out executions in secret and strive to take all measures necessary to guarantee access to information on the death penalty, including advance notice to family members regarding the date of execution.

59. States that continue to apply the death penalty should comply with international human rights requirements, as stipulated in article 6 of the International Covenant on Civil and Political Rights. In particular, capital punishment may be imposed only for most serious crimes, that is, intentional killing, and may not be mandatory in such cases. States should also adhere to fair trial guarantees in capital cases. Clemency, pardons and commutations are critical steps towards the abolition of the death penalty. Heads of State and Government and other responsible State authorities should exercise their constitutional and/or legal authority to grant amnesty, pardon or commutation of the sentence of death in all cases.

60. States should consider developing measures to minimize the harm suffered by other persons affected by the death penalty, including family members of convicts,

defence lawyers, prison staff and medical staff. In particular, under the Convention on the Rights of the Child, States must take measures to ensure that children's rights, including the principle of the best interests of the child, are duly considered during sentencing.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Human rights implications of overincarceration and overcrowding

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 24/12. It contains an analysis of the human rights implications of overincarceration and overcrowding, drawing on the experience of United Nations and regional human rights mechanisms and in the light of the views provided by States, including on their practice regarding alternatives to detention, and other relevant stakeholders.

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I. Introduction

1. The first substantive right provided by the Universal Declaration of Human Rights, in its article 3, is the right to life, liberty and security of person. As stressed by the Human Rights Committee in paragraph 2 of its general comment No. 35, on article 9 of the International Covenant on Civil and Political Rights, the right to liberty and security of person is precious for its own sake, and also because the deprivation of liberty and security of person have historically been principal means for impairing the enjoyment of other rights.[1]

2. While the right to liberty of person is not an absolute right, any deprivation of liberty must not be arbitrary and must be carried out with respect for the rule of law.[2] As affirmed by the Human Rights Council in its resolution 24/12, detainees retain all of their human rights and fundamental freedoms, except for those lawful limitations that are demonstrably necessitated by the fact of incarceration.

3. According to recent statistics, more than 10.2 million people around the world are deprived of their liberty,[3] about 3 million of whom are awaiting trial.[4] Data further suggests that the number of prisoners exceeds official prison capacity in at least 114 countries, and that prisons in 92 of these countries hold between 100 and 200 per cent of their capacity, while 22 hold over double, even triple or nearly quadruple their capacity.[5] The levels of overcrowding in places of deprivation of liberty around the world have been described as endemic,[6] alarming,[7] extreme,[8] chronic[9] and outrageous,[10] and are said to be an indicator of, and contributor to, the global prison crisis.[11]

4. The phenomena of overcrowding and overincarceration are inherently intertwined. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated that "[t]he negative impact of the overuse of incarceration on human rights is manifold. The overuse of imprisonment constitutes one of the major underlying causes of overcrowding, which results in conditions that amount to ill-treatment or even torture".[12] Furthermore, numerous United Nations bodies and mechanisms, including the Security Council,[13] the Human Rights Committee,[14] the Committee against Torture,[15] the Subcommittee on Prevention of Torture,[16] the Working Group on Arbitrary Detention[17] and

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[1] See CCPR/C/GC/35, para. 2.
[2] See ibid., para. 10.
[3] See Roy Walmsley, World Prison Population List, 10th edition (London, International Centre for Prison Studies, 2013).
[4] See Roy Walmsley, World Pre-trial/Remand Imprisonment List, 2nd edition (London, International Centre for Prison Studies, 2014).
[5] See International Centre for Prison Studies, Highest to Lowest-Occupancy level (based on official capacity) (London, 2014).
[6] See CAT/OP/MLI/1, para. 49.
[7] See A/HRC/22/53/Add.2, para. 81; CAT/OP/BRA/1, para. 96.
[8] See CAT/OP/BEN/1, para. 147.
[9] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16033&LangID=E.
[10] See Council of Europe document CPT/Inf (2015) 6, para. 57.
[11] See A/65/273, para. 1.
[12] See A/68/295, para. 86.
[13] See, for example, Security Council resolution 2180 (2014), para. 16.
[14] See, for example, CAT/C/RWA/CO/1, para. 19, and CAT/C/TGO/CO/2, para. 13.
[15] See, for example, CAT/OP/HND/1, para. 198.
[16] See CAT/OP/MLI/1, para. 49; CAT/OP/MEX/1, para. 177; and CAT/OP/BEN/1, para. 147.
[17] See, for example, A/HRC/10/21, para. 42, and A/HRC/27/48, paras. 72-74.

regional human rights bodies[18] have all expressed serious concerns about overcrowding in places of deprivation of liberty and its negative impact on the human rights of detainees.

5. Overcrowding is not only a problem in prisons but also in other places in which individuals are deprived of their liberty. Article 4 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines the term "deprivation of liberty" as encompassing any place under States' jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority, or at its instigation, or with its consent or acquiescence. This definition corresponds to the long-standing practice of international and regional human rights mechanisms, which have interpreted the term "deprivation of liberty" to include settings beyond the criminal justice sector.[19] The problem of overcrowding also extends to such settings, including psychiatric hospitals,[20] various centres for holding irregular migrants and asylum seekers,[21] including offshore centres for processing asylum claims,[22] and temporary airport holding facilities.[23]

6. The Human Rights Council, in its resolution 24/12, encouraged States to address overcrowding in detention facilities by taking effective measures. In the same resolution, it requested the United Nations High Commissioner for Human Rights to submit an analytical report on the human rights implications of overincarceration and overcrowding, drawing on the experience of United Nations and regional human rights mechanisms, seeking the views of States, including on their practice regarding alternatives to detention, and other relevant stakeholders. In response to a note verbale sent by the Office of the United Nations High Commissioner for Human Rights, 23 States and 22 other stakeholders submitted their views, which are available online.[24]

7. The present report contains an analysis of the human rights implications of overincarceration and overcrowding, including the impact of overincarceration and overcrowding on human rights, the main causes of overincarceration and overcrowding, recommendations on ways to address these issues and conclusions.

II. The impact of overincarceration and overcrowding on human rights

8. The main element that defines deprivation of liberty is the inability of those who are in detention to protect themselves, as their daily life is largely dependent on the decisions taken by personnel in detention facilities.[25] Therefore, when resorting to deprivation of liberty, a State undertakes a duty of care[26] and special responsibility[27] towards those held in

[18] See www.achpr.org/files/sessions/52nd/inter-act-reps/185/activity_report_prisons_eng.pdf, p. 8.
[19] CCPR/C/GC/35, para. 5.
[20] E/C.12/1/Add.80, para. 31; A/HRC/25/60/Add.1, para. 69; CAT/C/GHA/CO/1, para. 17; CAT/C/RUS/CO/4, para. 18; CAT/OP/MEX/1, para. 203; www.achpr.org/files/activity-reports/36/achpr54eos15_actrep36_2014_eng.pdf, para. VII.b(xv).
[21] E/C.12/DEU/CO/5, para. 13; A/HRC/13/30, para. 65; CAT/C/GRC/CO/5-6, para. 20; CAT/C/NOR/CO/6-7, para. 17; CCPR/C/FIN/CO/6, para. 10; www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 65.
[22] CAT/C/AUS/CO/4-5, para. 17.
[23] See Council of Europe document CPT/Inf (2014) 26, para. 73.
[24] www.ohchr.org/EN/Issues/RuleOfLaw/Pages/Overincarceration.aspx.
[25] A/HRC/10/21, para. 46.
[26] See Council of Europe document CPT/Inf (2015) 12, para. 54.

detention. Consequently, failure to fulfil this duty may entail State responsibility,[28] including international responsibility.[29] Except for those lawful limitations that are demonstrably necessitated by the fact of incarceration, State authorities should ensure that persons deprived of their liberty are able to enjoy all human rights.

A. Right to liberty and security

9. As stressed by the Human Rights Committee, the right to liberty and security of person applies to everyone, including those convicted of crime.[30] While States enjoy a wide margin of discretion in their choice of penal policy, the right to liberty of person articulated in article 9 of the International Covenant on Civil and Political Rights requires that, as a basic principle, States resort to the deprivation of liberty only insofar as it is necessary to meet a pressing societal need and in a manner proportionate to that need.[31] Moreover, any deprivation of liberty must not be arbitrary and must be carried out with respect for the rule of law.[32]

10. One of the fundamental safeguards against arbitrary deprivation of liberty is the right to bring proceedings before a court to challenge the lawfulness of detention, which is a self-standing[33] and non-derogable right.[34] In order to render this right effective, such principles as impartiality of the court reviewing the detention, assistance by a legal counsel, access to legal aid and authorities bearing the burden of proof must be observed.[35] Yet, numerous human rights bodies have reported serious infringements upon the right to liberty as individuals are detained without any justification,[36] those arrested are not promptly brought before a judge,[37] and a judicial decision regarding continued detention is not rendered swiftly.[38] Moreover, the ability of detainees to challenge their continued detention is frequently hindered owing to a lack of access to legal representation and legal aid and even the unavailability of judges.[39]

11. The Working Group on Arbitrary Detention stated that the principle that deprivation of liberty shall be imposed proportionately to meet a pressing public need is most relevant to detention pending trial.[40] This implies that pretrial detention should be a measure of last

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[27] See A/HRC/27/55, para. 51, *Caesar v. Trinidad and Tobago*, Inter-American Court of Human Rights Judgement (2005), para. 97, and communication Nos. 105/93–128/94–130/94–152/96, *Media Rights Agenda & Constitutional Rights Project v. Nigeria*, African Commission on Human and Peoples' Rights (1998), para. 91.

[28] See CCPR/C/GC/35, para. 8.

[29] See CAT/OP/MEX/1, para. 177.

[30] See CCPR/C/GC/35, para. 3.

[31] See E/CN.4/2006/7, para. 63.

[32] See CCPR/C/GC/35, para. 10.

[33] See A/HRC/30/37, para. 2.

[34] See A/HRC/30/37, paras. 22-25. See also CCPR/C/21/Rev.1/Add.11, paras. 11 and 16, and CCPR/C/GC/35, paras. 6-67.

[35] See A/HRC/30/37, guidelines 4, 8 and 14.

[36] See CAT/C/TGO/CO/2, para. 13.

[37] See www.achpr.org/files/sessions/37th/mission-reports/ethiopia/mistep_specmec_priso_ethiopia_2004_eng.pdf, pp. 24 and 25.

[38] See A/HRC/19/57, para. 53, and www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, pp. 21 and 22.

[39] See CCPR/C/TUR/CO/1, para. 17; A/HRC/19/57, para. 63; A/HRC/10/21, para. 45; CAT/C/54/2, para. 91; and www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 10.

[40] See E/CN.4/2006/7, para. 64.

resort. However, international[41] and regional[42] bodies have expressed their concern over the increasing use of pretrial detention and its excessive length, noting its significant contribution to overcrowding,[43] leading to a situation where, in some prisons, pretrial detainees constitute the majority of the population.[44]

12. It has also been reported that, in some States, overcrowding makes it difficult to monitor the implementation of each sentence. This infringes upon the right to personal liberty of those who have already served their sentences and are not promptly released.[45]

13. Concerns have also been expressed over practices of preventive custody[46] and post-conviction preventive detention[47] employed by some States, which both infringe upon the right to liberty and contribute to the problem of overincarceration and overcrowding.

14. Authorities in charge of places of detention bear the duty of care towards detainees,[48] a duty often neglected as — due to overcrowding — prison resources are overstretched and staffing levels are inadequate for the numbers of detainees. This leads to serious breaches of the right to security of detainees and instances where authorities fail to protect detainees from inter-prisoner violence.[49] Due to overcrowding, tensions may also arise between the staff and detainees[50] with a potential serious impact on discipline,[51] leading to rule by the most powerful detainees,[52] riots, disturbances and hunger strikes in protest to the conditions of detention.[53] Furthermore, overcrowding in detention facilities may be so extreme that the authorities are unable to ensure the protection of detainees in case of such emergencies as floods and fire,[54] which in turn may infringe upon their right to life.[55]

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[41] See A/HRC/19/57, para. 48; CAT/C/54/2, para. 76; and CCPR/C/TUR/CO/1, para. 17.

[42] See www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 38. See also Council of Europe document CPT/Inf (2014) 31, para. 56.

[43] See CAT/C/TGO/CO/2, para. 12, and CAT/OP/MLI/1, para. 29.

[44] See CAT/C/46/2, para. 52, and CAT/C/GTM/CO/5-6, para. 17.

[45] See CAT/C/RWA/CO/1, para. 19, and CAT/OP/PRY/1, para. 46.

[46] See A/HRC/27/48, paras. 78 and 79.

[47] See A/HRC/27/48, para. 75; A/HRC/4/25/Add.3, para. 7(f); and CAT/OP/BEN/1, para. 151.

[48] See Council of Europe document CPT/Inf (2015) 12, para. 54.

[49] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 53; and *Neptune v. Haiti*, Inter-American Court of Human Rights Judgement (2008), para. 137; CPT/Inf (2015) 12, para. 106. See also Council of Europe document CPT/Inf (2014) 26, para. 110; CAT/C/BGR/CO/4-5, para. 23; CAT/C/GTM/CO/5-6, para. 18; CAT/C/MEX/CO/5-6, para. 19; CCPR/C/BOL/CO/3, para. 20; and CAT/OP/MEX/1, para. 178.

[50] See Council of Europe document CPT/Inf (2014) 31, para. 56; A/HRC/25/60/Add.1, para. 19; and CAT/OP/BEN/1, para. 210.

[51] See CAT/OP/MLI/1, para. 49.

[52] See CAT/OP/MEX/1, para. 166; CAT/C/BGR/CO/4-5, para. 23; and Council of Europe document CPT/Inf (2015) 12, para. 54.

[53] See CAT/C/BOL/CO/2, para. 18, and CAT/C/MAR/CO/4, para. 19.

[54] See *Pacheco Teruel et al. v. Honduras*, Inter-American Court of Human Rights Judgement (2012), para. 96. See also Council of Europe document CPT/Inf (2014) 26, para. 102, and CAT/OP/MEX/1, para. 176.

[55] See *Pacheco Teruel et al. v. Honduras*, Inter-American Court of Human Rights Judgement (2012), para. 66.

B. Freedom from torture and other inhuman or degrading treatment or punishment

15. Overcrowding has been established to constitute a severe form of ill-treatment,[56] inhuman or degrading treatment[57] and even torture.[58] Poor material conditions are exacerbated by overcrowding and adversely affect all individuals living or working in places of detention. They contribute to tensions and deterioration of relations among prisoners and between prisoners and personnel, which in turn increase the risk of ill-treatment.[59]

16. Both international and regional human rights mechanisms have established breaches of the prohibition of torture due to overcrowding, as detainees are forced to live for prolonged periods in deplorable material conditions,[60] unsuitable for a humane and dignified existence,[61] with very poor hygiene and lacking out-of-cell activities,[62] adequate nutrition and access to health services.[63]

C. Right to health

17. States must respect the right to health and ensure equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services.[64] The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has specifically noted the link between overincarceration,[65] overcrowding and infringements upon the right to health,[66] especially in relation to the spread of infectious and communicable diseases, such as tuberculosis[67] and hepatitis C.[68] This poses risks not only to the health of other detainees, but also to the staff and even the general population once prisoners are being released.[69]

18. Other United Nations and regional human rights bodies have also reported the negative impact of overcrowding upon the right to health of detainees through denial of,[70]

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[56] See CAT/OP/BRA/1, para. 75.

[57] See Council of Europe documents CPT/Inf (92) 3, para. 46, and CPT/Inf (2014) 26, para. 100. See also www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 112 (ix); *Kalashnikov v. Russia*, European Court of Human Rights Judgement (2002), para. 102; and *Ananyev and Others v. Russia*, European Court of Human Rights Judgement (2012), paras. 143-148.

[58] See CAT/OP/MLI/1, para. 49, and E/CN.4/2004/56, para. 49.

[59] See CAT/OP/MDV/1, para. 210.

[60] See CAT/OP/MLI/1, paras. 49, 80; CCPR/C/ALB/CO/2, para. 16; and communication No. 2218/2012, *Abdullayev v. Turkmenistan*, Views adopted by the Human Rights Committee on 25 March 2015, paras. 5.3 and 7.3. See also Council of Europe document CPT/Inf (2014) 15, para. 126, and *Boyce v. Barbados*, Inter-American Court of Human Rights Judgement (2007), para. 94.

[61] See A/68/295, para. 45, and *Montero-Aranguren v. Venezuela*, Inter-American Court of Human Rights Judgement (2006), para. 99.

[62] See CAT/OP/MEX/1, para. 184, and *Boyce v. Barbados*, Inter-American Court of Human Rights Judgement (2007), para. 94.

[63] See A/HRC/25/60/Add.1, para. 85.

[64] See A/65/255, para. 59.

[65] See A/65/255, para. 68.

[66] See A/HRC/23/41/Add.1, para. 43.

[67] See A/HRC/23/41/Add.1, para. 52.

[68] See A/65/255, para. 29.

[69] See A/HRC/23/41/Add.2, para. 31; A/65/255, para. 29; and CAT/C/54/2, para. 77.

[70] See A/HRC/22/53/Add.2, para. 66.

or inadequate access to medical treatment,[71] insufficient mental health services,[72] lack of health-care professionals in places of detention,[73] failure to implement effective harm-reduction programmes and drug-dependence treatment.[74] Overcrowding has also been found to be a root cause of entirely preventable medical conditions.[75]

19. There are also various factors associated with overcrowding that contribute to the denial of the right to health, such as poor natural light and ventilation in places of detention,[76] extreme temperatures,[77] poor hygiene and sanitation standards,[78] insufficient provision for personal hygiene,[79] and infestation with insects and vermin.[80] Ultimately, infringements on the right to health may adversely impact on the right to life of detainees.[81]

D. Right to food, water and sanitation

20. The Special Rapporteur on the human right to safe drinking water and sanitation emphasized that the lack of access to sanitation can be tantamount to inhuman or degrading treatment in certain circumstances, especially in the context of detention. The Special Rapporteur noted that overcrowding in places of detention can seriously hinder the ability of the authorities to ensure safe drinking water and proper sanitation.[82]

21. The Special Rapporteur on the right to food has highlighted the frequent infringements upon the right to adequate food of detainees[83] and emphasized State responsibility to provide those in detention with adequate food.[84] The Special Rapporteur has also underlined the negative impact of overcrowding on the right to food.[85]

22. Numerous other United Nations and regional human rights bodies have also reported serious infringements upon detainees' right to safe water and sanitation, as well as the right to food. These infringements, attributed to overcrowding, include failure of the State to provide adequate quality and quantity of food;[86] adequate washing[87] and toilet facilities;[88]

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[71] See CEDAW/C/GRC/CO/7, para. 34; CAT/C/BLR/CO/4, para. 19; CAT/C/ECU/CO/3, para. 24; CAT/C/GAB/CO/1, para. 17; and CAT/C/LKA/CO/3-4, para. 14.

[72] See A/HRC/23/41/Add.2, para. 40; and CAT/C/AUS/CO/4-5, para. 11.

[73] See CAT/C/GRC/CO/5-6, para. 14; and CAT/C/PER/CO/5-6, para. 10.

[74] See A/65/255, para. 29.

[75] See A/HRC/25/60/Add.1, para. 54; and www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 76.

[76] See CAT/C/MDA/CO/2, para. 18; A/HRC/22/53/Add.2, para. 47; and *Tibi v. Ecuador*, Inter-American Court of Human Rights Judgement (2004), para. 150.

[77] See A/HRC/25/60/Add.1, para. 44; and CAT/OP/BEN/1, para. 180.

[78] See CAT/C/PER/CO/5-6, para. 10; CAT/C/SYR/CO/1, para. 30; and CAT/C/LKA/CO/3-4, para. 14.

[79] See A/HRC/25/60/Add.1, para. 54.

[80] See CAT/OP/BEN/1, para. 218; CAT/OP/BRA/1, para. 105; www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 76; and Council of Europe document CPT/Inf (2015) 12, para. 66.

[81] See CAT/C/TGO/CO/2, para. 13.

[82] See A/HRC/12/24, paras. 45-47.

[83] See A/HRC/25/57/Add.1, paras. 70-72, 83(n), and A/HRC/22/50/Add.2, paras. 12-14.

[84] See A/HRC/22/50/Add.2, para. 13. See also CAT/OP/MEX/1, para. 112.

[85] See A/HRC/25/57/Add.1, paras. 70, and A/HRC/22/50/Add.2, para. 14.

[86] See CAT/C/BLR/CO/4, para. 19; CAT/C/BGR/CO/4-5, para. 21; CAT/C/KHM/CO/2, para. 19; CAT/C/GAB/CO/1, para. 17; CAT/C/MAR/CO/4, para. 19; and A/HRC/22/53/Add.2, para. 66.

[87] See www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 20; A/HRC/25/60/Add.1, para. 54; and Council of Europe document CPT/Inf (2014) 26, para. 110.

safe drinking water[87] and sanitation,[88] including access to such basic hygiene products such as soap and toilet paper free of charge,[89] and adequate sleeping arrangements, including a clean mattress and bedding.[90]

23. Failure to ensure proper implementation of these rights has led to violations of other rights, including the right to safety and security, as inadequate food provision has led to tensions in places of detention and even violence,[91] as well as freedom from cruel, inhuman or degrading treatment.[94] Clean water supply, effective sewage and waste disposal, hygienic food preparation and general hygiene practices are all essential to a clean and healthy prison environment and to preventing and controlling the spread of disease,[95] and their absence can also negatively affect the right to health[96] and even the right to life.[97]

E. Right to education and rehabilitation

24. Underlining that detainees constitute a highly marginalized group facing endemic violations of their right to education, the Special Rapporteur on the right to education has emphasized the negative impact of overcrowding on the exercise of this right. Overcrowding puts significant strain on the available resources as demand exceeds the staff and facilities available.[98] It is common that people in places of detention are locked in overcrowded cells for 23 hours a day without any purposeful out-of-cell activity[99] and no rehabilitation programmes,[100] without possibilities to continue their education[101] or take part in skills development and vocational programmes.[102]

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[87] See www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 33. See also Council of Europe document CPT/Inf (2014) 26, para. 110; A/HRC/25/71, para. 35; and CAT/OP/BEN/1, para. 208.

[88] See A/HRC/13/39/Add.5, para. 91; A/HRC/25/60/Add.1, para. 44; CCPR/C/BGR/CO/3, para. 18; and CCPR/C/NIC/CO/3, para. 17.

[89] See CAT/C/FIN/CO/5-6, para. 14; CAT/C/GRC/CO/5-6, para. 14; CAT/C/MDA/CO/2, para. 18; CCPR/C/JAM/CO/3, para. 23; CAT/OP/BEN/1, para. 208; and CPT/Inf (2014) 26, para. 101.

[91] See CAT/OP/BRA/1, para. 106; and CAT/OP/MEX/1, para. 187.

[92] See CAT/OP/PRY/1, para. 148; CAT/OP/BRA/1, para. 137; A/HRC/22/53/Add.2, para. 47; *Tibi v. Ecuador*, Inter-American Court of Human Rights Judgement (2004), para. 150; www.achpr.org/files/sessions/12th-eo-mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 75; and Council of Europe document CPT/Inf (2015) 12, para. 65.

[93] See CAT/C/TGO/CO/2, para. 13; and CAT/OP/PRY/1, para. 183.

[94] See *Montero-Aranguren v. Venezuela*, Inter-American Court of Human Rights Judgement (2006), para. 99.

[95] See A/HRC/23/41/Add.1, para. 52.

[96] See CAT/C/PER/CO/5-6, para. 10; CAT/OP/BEN/1, para. 218; and www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 3.

[97] See CAT/C/TGO/CO/2, para. 13; and CCPR/C/MOZ/CO/1, para. 14.

[98] See A/HRC/11/8, para. 12; and Council of Europe document CPT/Inf (97) 10, para. 13.

[99] See *Boyce v. Barbados*, Inter-American Court of Human Rights Judgement (2007), para. 93-94; Council of Europe document CPT/Inf (2014) 26, para. 93; CAT/C/BGR/CO/4-5, para. 21; and A/HRC/13/39/Add.5, para. 234.

[100] See *Juvenile Reeducation Institute v. Paraguay*, Inter-American Court of Human Rights Judgement (2004), para. 134.24; Council of Europe document CPT/Inf (2014) 31, para. 56; A/HRC/25/60/Add.1, para. 85; and A/HRC/22/53/Add.2, para. 47.

[101] See CAT/OP/MEX/1, para. 170.

[102] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 54; and Council of Europe document CPT/Inf (2014) 21, para. 43.

25. Bearing in mind the importance of rehabilitation as an overarching aim of imprisonment, the adverse impact of overcrowding on the availability of rehabilitation services is of particular concern.[103]

F. Freedom of religion or belief

26. The Special Rapporteur on freedom of religion or belief has emphasized that all persons deprived of their liberty have the right to freedom of religion or belief.[104] Overcrowding has an adverse effect on all aspects of detention, which in turn negatively impacts detainees' freedom of religion or belief. Often there is insufficient space for religious practices,[105] the possibility to observe religious rituals on certain days is hindered,[106] religious scripts are unavailable[107] and there are reportedly problems with regard to the type of meals suitable for members of different faiths.[108]

G. Right to privacy, family life and rights of family members

27. Overincarceration and overcrowding mean that those in detention live in very crammed surroundings, thereby leading to a serious infringement of their right to privacy.[109] The independent expert on the situation of human rights in Haiti has reported that the severity of overcrowding in detention facilities is such that each detainee has no more than 40cm^2 of living space.[110] The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment reported situations in which inmates have to lie head to toe in a foetal position, sleep in shifts or sitting up, owing to the lack of space as a result of overcrowding.[111] Many detainees also lack privacy even for such basic functions as using toilet facilities.[112]

28. Overcrowding may lead to restrictions upon the right to maintain contacts with relatives because facilities usually allocated for family visits may be reallocated for other purposes owing to overcrowding. Moreover, some countries resort to so-called "balancing" programmes whereby detainees are reallocated to different places of detention in order to alleviate problems of overcrowding. This results in detainees being moved far away from their families, adversely impacting their visit entitlements.[113] This infringes not only upon detainees' human rights but also on those of their family members. It may also have negative impact upon the fair trial rights as detainees are moved far from the courts and legal services.

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[103] See A/HRC/25/60/Add.1, para. 85; A/HRC/22/53/Add.2, para. 47; and *Pacheco Teruel et al. v. Honduras*, Inter-American Court of Human Rights Judgement (2012), para. 96.

[104] See A/60/399, para. 73.

[105] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 46.

[106] See A/HRC/10/8/Add.2, para. 53.

[107] See A/60/399, para. 70.

[108] See A/HRC/4/21/Add.1, paras. 23 and 58-60; and A/HRC/10/8/Add.2, para. 53.

[109] See A/HRC/25/71, para. 35.

[110] See A/HRC/25/71, para. 32.

[111] See A/HRC/25/60/Add.1, para. 43.

[112] See *Montero-Aranguren v. Venezuela*, Inter-American Court of Human Rights Judgement (2006), para. 99.

[113] See CPT/Inf (2014) 13, para. 111.

29. Furthermore, overincarceration may negatively affect family members who lose the main breadwinner, thereby adversely impacting on the best interests of the affected child or children.[114]

H. Right to equality and non-discrimination

30. The effects of overincarceration and overcrowding in places of detention are especially negative for members of groups such as women,[115] children,[116] persons with disabilities,[117] racial minorities[118] and indigenous peoples,[119] and non-citizens. Owing to overstretched resources, the specific needs of persons belonging to these groups cannot be addressed. Failure to separate pretrial detainees from others,[120] adults from children[121] and men from women[122] has been alleged to lead to exploitation and sexual violence.[123] The specific needs of women and girls in relation to their right to health are disregarded,[124] in particular in the case of pregnant women, girls and nursing mothers.[125] There are reports of young children being detained with their mothers[126] and failure to respect the special needs of children in detention.[127] Places of detention are reported to have insufficient number of female[128] or minority[129] staff, which impacts adversely upon women[130] and members of minorities in detention. Furthermore, persons with disabilities are held in environments that include areas inaccessible to them[131] and often prisoners with mental illnesses are not separated from others.[132]

31. Overcrowding and the associated failure to address the needs of the members of these groups in detention has made them particularly vulnerable to violence,[133] and can lead

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[114] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, chapter F(1); and *M v. The State*, Constitutional Court of South Africa Judgement (2007). See also CRC/C/GC/14, para. 69.

[115] See CEDAW/C/BRA/CO/7, para. 32.

[116] See CAT/C/LKA/CO/3-4, para. 14, and A/HRC/28/68, para. 41. See also *Juvenile Reeducation Institute v. Paraguay*, Inter-American Court of Human Rights Judgement (2004), para. 175.

[117] See A/68/295, para. 45.

[118] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16257&LangID=E.

[119] See CAT/OP/NZL/1, para. 33.

[120] See CAT/C/GAB/CO/1, para. 17; CAT/C/MUS/CO/3, para. 14; CAT/C/LKA/CO/3-4, para. 14; and CCPR/C/MOZ/CO/1, para. 14.

[121] See E/C.12/LKA/CO/2-4, para. 32; www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 38; CAT/C/BLR/CO/4, para. 19; CAT/C/SYR/CO/1, para. 30.

[122] See CAT/C/KHM/CO/2, para. 19, and CCPR/C/BDI/CO/2, para. 18.

[123] See SRT.A/HRC/28/68, para. 68; *Juvenile Reeducation Institute v. Paraguay*, Inter-American Court of Human Rights Judgement (2004), para. 175; CAT/C/BOL/CO/2, para. 18; and A/HRC/28/68, para. 58.

[124] See A/HRC/22/50/Add.2, para. 13; CEDAW/C/BRA/CO/7, para. 32; and www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 33.

[125] See CEDAW/C/BRA/CO/7, para. 32-33.

[126] See CAT/C/KEN/CO/2, para. 12, and CAT/C/RWA/CO/1, para. 19.

[127] See CAT/OP/MEX/1, para. 187.

[128] See CPT/Inf (2014) 13, para. 53, and CAT/C/KHM/CO/2, para. 19.

[129] See CPT/Inf (2014) 13, para. 53.

[130] See CPT/Inf (2014) 13, para. 53.

[131] See A/68/295, para. 45.

[132] See CAT/OP/HND/1, para. 191.

[133] See CAT/OP/PRY/1, para. 148, and Council of Europe document CPT/Inf (2015) 12, para. 54. See also www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 15.

to violations of their human rights, including detainees' right to life[134] as well as safety and security of their family members, who may become victims of extortion.[135] Furthermore, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has noted that, in severely overcrowded prisons, meaningful activities such as work, education and recreation are only made available to "a few privileged prisoners who 'cooperate' and/or pay the necessary corruption fees".[136]

III. The main causes of overincarceration and overcrowding

32. The main causes of overincarceration and overcrowding include deficiencies within the criminal justice system; excessive recourse to pretrial detention; absence and/or improper administration of alternatives to detention; specific sentencing policies; and lack of oversight over the places of detention.

A. Deficiencies within the criminal justice system

33. The European Committee for the Prevention of Torture noted that it had encountered high incarceration rates and resultant severe prison overcrowding and argued that "the fact that a State locks up so many of its citizens cannot be convincingly explained away by a high crime rate; rather, the general outlook of members of the law enforcement agencies and the judiciary must, in part, be responsible".[137] An effective criminal justice system[138] with all actors — including the police, prosecution, defence lawyers and the judiciary — working efficiently and according to the rule of law and requirements under international human rights law is essential to ensure that the cases of persons who come in contact with this system are dealt with efficiently and in accordance with the law. In reality, however, criminal justice systems around the world encounter major challenges and shortcomings.

34. The so-called "zero tolerance polices" adopted in many States have led to a high increase in the number of arrests,[139] even for minor offences such as drunkenness, crossing the railway, or shoplifting,[140] and to people being held in custody for long periods.[141] Moreover, some practices, such as police being rewarded for making arrests,[142] and overbroad legislation, rules and regulations[143] have reportedly led to arbitrary arrests. In turn, this situation has contributed significantly to overincarceration and overcrowding.

35. Following arrest, the efficiency with which authorities are able to deal with the case of each detainee is crucial to reducing overcrowding and overincarceration. Pretrial

[134] See CAT/C/AUS/CO/4-5, para. 11.
[135] See CAT/C/MEX/CO/5-6, para. 19.
[136] See A/HRC/13/39/Add.5, para. 234.
[137] See Council of Europe document CPT/Inf/C (2002) 1 [Rev. 2015] Section. 7/86, para. 28.
[138] See A/HRC/25/60/Add.1, para. 84.
[139] See Council of Europe document CPT/Inf (2014) 13, para. 37; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/ACLU.pdf; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/CNDH_Mexico.pdf; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/PDDH_Nicaragua.pdf.
[140] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf,chapter F(1).
[141] See A/HRC/19/57/Add.2, para. 38.
[142] See CAT/OP/MEX/1, para. 182.
[143] See CCPR/C/HND/CO/1, para. 13; *Pacheco Teruel et al. v. Honduras*, Inter-American Court of Human Rights Judgement (2012), para. 101; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/BCHR_BIRD_ADHRB.pdf.

detention is often prolonged owing to inadequate police investigations, lost case files and a shortage of judges. In many States, there are huge backlogs of cases, especially involving pretrial detention, and an urgent need to increase judicial capacity to deal with these.[144] Furthermore, owing to lack of resources and trained officers, alternative measures and parole systems are not implemented.[145] The efficiency of the criminal justice system is also negatively impacted by inappropriate communication systems between prosecutors, public defenders and judges.[146] These deficiencies within the criminal justice system also mean that the status of those in detention is not reviewed at regular intervals.[147] Furthermore, many States lack comprehensive and well-resourced legal aid programmes.

36. Moreover, many individuals remain in detention owing to the absence of centralized registers and the lack of an effective system to monitor the length of pretrial detention or progress in the implementation of sentencing.[148] In the absence of such registers, and with poor communication between criminal justice actors,[149] authorities simply lack accurate knowledge about who is due to be released. This not only prolongs pretrial detention but also keeps those who have already completed their sentence in custody, thereby contributing to overcrowding.[150]

B. Excessive recourse to pretrial detention

37. The Subcommittee on Prevention of Torture has stated that the excessive use and length of pretrial detention is a major cause of overcrowding,[151] and that the overuse and misuse of pretrial detention needs to be tackled as a matter of priority.[152] Other international[153] and regional[154] bodies have also reported an excessive recourse to pretrial detention, a measure that should only be a last resort and subject to certain conditions,[155] but that in practice is often applied even to such minor cases as theft of a mobile telephone,[156] a pen or a chicken.[157] In some countries, pretrial detainees reportedly

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[144] See CAT/C/KEN/CO/2, para. 15; CAT/C/TGO/CO/2, para. 12; A/HRC/19/57, para. 36; A/HRC/25/71, paras. 34 and 41; and www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 52.

[145] See A/HRC/25/60/Add.1, paras. 84, 99; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/PDH_Guatemala.pdf.

[146] See CAT/OP/HND/1, para. 184; CAT/OP/PRY/2, para. 33.

[147] See CAT/OP/BEN/1, para. 160; CAT/OP/HND/1, para. 184.

[148] See *Montero-Aranguren v. Venezuela*, Inter-American Court of Human Rights Judgement (2006), para. 60(9); CAT/C/KHM/CO/2, para. 19.

[149] See CAT/OP/PRY/2, para. 33; CAT/OP/HND/1, para. 184.

[150] See CAT/C/RWA/CO/1, para. 19; CAT/OP/BEN/1, para. 161; CAT/OP/PRY/1, para. 46.

[151] See CAT/C/54/2, para. 77; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/CNCPPDH_Algeria.pdf.

[152] See CAT/C/46/2, para. 52; and CAT/C/54/2, para. 83.

[153] See CAT/C/TGO/CO/2, para. 12; A/HRC/25/60/Add.1, para. 84; E/CN.4/2004/56, para. 49; A/HRC/19/57, para. 48; and CCPR/C/TUR/CO/1, para. 17.

[154] See www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 24; www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, Chapter F; Council of Europe document CPT/Inf (2014) 15, para. 126; and CPT/Inf/C (2002) 1 [Rev. 2015] Section: 7/86, para. 28.

[155] See CAT/C/54/2, para. 84; and Council of Europe document CPT/Inf (2014) 31, para. 56.

[156] See CAT/OP/MLI/1, para. 29.

[157] See www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 10.

constitute the majority of the prison population,[158] and over 90 per cent of detainees in some settings.[159]

C. Absence and/or improper administration of alternatives to detention

38. According to the Special Rapporteur on Prisons and Conditions of Detention of the African Commission on Human and Peoples' Rights, the "increase in prison population cannot alone be attributed to higher rates in crime. Simply put, in most jurisdictions, there is the belief that prison is preferable to any alternative; thus, the punitive element that characterizes this sanction remains the cornerstone of modern day correctional and penal systems. In spite of the proven efficiency and effectiveness of non-custodial alternatives, harsher penalties in the form of longer prison sentences continue to be imposed".[160]

39. This view is shared by other international[161] and regional[162] bodies who point to the absence of alternatives to detention or shortcomings in their implementation as a significant contributor to overincarceration and overcrowding. Further contributing factors are the unavailability, dysfunctionality or excessively onerous conditions of bail;[163] the ineffectiveness of the probation service and little recourse to parole;[164] the absence of or a poorly functioning system of alternatives to detention, including community service,[165] electronic supervision and house arrest;[166] and the reluctance of prosecutorial and judicial authorities to employ non-custodial sentences,[167] or the lack of their availability to the judiciary, especially in less serious cases, and lack of encouragement to use those options.[168]

D. Sentencing policies

40. The policies that a State puts in place in response to crime have direct implications for the number of detainees and the length of time that they spend in detention. So-called "zero tolerance policies" have increased the number of criminal convictions with custodial sentences and — coupled with the low acquittal rate and common use of detention — have led to overcrowding in prisons.[169]

41. As stated by the Working Group on Arbitrary Detention, "[m]any countries have seen an increasingly rapid rate of legislative response to criminal acts, and are now

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[158] See CAT/C/TGO/CO/2, para. 12, and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/OSJI.pdf.

[159] See A/HRC/25/71, para. 33.

[160] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 2.

[161] See CAT/OP/BRA/1, para. 96; CCPR/C/AGO/CO/1, para. 19; A/HRC/25/60/Add.1, para. 84; and CAT/C/KHM/CO/2, para. 19.

[162] See Council of Europe document CPT/Inf (2014) 29, para. 33.

[163] See CAT/OP/MDV/1, para. 169; CAT/C/KEN/CO/2, para. 15; and www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 52.

[164] See CCPR/C/AGO/CO/1, para. 19; A/HRC/25/60/Add.1, para. 84; and Council of Europe document CPT/Inf (2014) 18, para. 35.

[165] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, Chapter F(i).

[166] See CPT/Inf (2014) 29, para. 33.

[167] See CPT/Inf (2014) 18, para. 35.

[168] See CPT/Inf (2014) 21, para. 42.

[169] See A/HRC/19/57/Add.2, para. 38.

beginning to experience the combined effects of habitual offender laws, generally increased minimum sentences with less discretion available to judges in each individual case, and post-conviction preventive detention",[170] which leads to overincarceration and overcrowding.

42. The following phenomena have been reported as factors contributing to overincarceration and overcrowding: the failure to include time served on custodial remand in sentence calculation;[171] the application of mandatory sentences especially for minor, non-violent crimes[172] and severe penalties for drug-related offences;[173] the imposition of excessively lengthy prison sentences, especially life sentences,[174] contrary to the principle of proportionality;[175] the absence of reasonable sentencing guidelines that would permit the reduction of excessively lengthy sentences;[176] the lack of discretion for judges when sentencing, which prevents them from taking into consideration the individual circumstances of the detainee and the case;[177] a great limitation to the remission of sentences;[178] and ambiguities in the legislation that lead to unnecessary detention.[179]

E. Lack of oversight of places of detention

43. Lack of oversight of places of detention is also a factor contributing to overincarceration and overcrowding. There are reports of improper record keeping in places of detention even to the extent that authorities do not know the exact number of detainees held at any given time or their status,[180] and are unaware of their living conditions. At times, beds are so close together that, at full capacity or even at somewhat below capacity, living conditions would still be extremely precarious.[181] Owing to infrequent or absent visits to places of detention, prosecutors and/or the judiciary[182] lack proper understanding of the levels of overcrowding and consequences of overincarceration. They are therefore unable to take this factor into consideration when making decisions regarding detention, sentencing or release.

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[170] See A/HRC/27/48, para. 73.
[171] See CAT/OP/MDV/1, para. 220.
[172] See A/HRC/25/60/Add.1, para. 99, and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/PRI.pdf.
[173] See A/HRC/10/44, para. 55, and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/ACLU.pdf.
[174] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, Chapter F(i), and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/PRI.pdf.
[175] See CAT/OP/MDV/1, para. 220.
[176] See A/HRC/25/60/Add.1, para. 99.
[177] See A/HRC/27/48, para. 73.
[178] See A/HRC/25/60/Add.1, para. 84.
[179] See *Pacheco Teruel et al. v. Honduras*, Inter-American Court of Human Rights Judgement (2012), para. 105.
[180] See A/HRC/22/53/Add.2, para. 46, and CAT/OP/BEN/1, para. 161.
[181] See A/HRC/25/60/Add.1, para. 40.
[182] See CAT/OP/MLI/1, para. 29.

IV. Addressing overincarceration and overcrowding and their human rights implications

A. Need for a proactive and holistic approach

44. Overincarceration and overcrowding cannot be tackled overnight, and the complexity of these phenomena requires a combination of legislative, administrative, political and economic measures, including a comprehensive policy and an action plan to implement it. This view is shared by national institutions,[183] regional mechanisms[184] and international bodies.[185] Both regional and international bodies have pointed out that, while measures such as the construction of new and the renovation of existing detention facilities may provide an immediate, short-term relief to the overcrowding problem, they have not been found to constitute an effective and lasting solution.[186]

45. As stated by the European Committee for the Prevention of Torture, the only viable way to control overcrowding is to adopt policies designed to limit or moderate the number of persons sent to prison.[187] In order to achieve this, the Committee argues in favour of a more concerted, holistic and proactive approach, based on wide-ranging discussions involving all relevant parties, including parliamentarians, prosecutors, judges and representatives of monitoring bodies.[188]

B. Right to challenge detention, assistance by legal counsel and access to legal aid

46. The Working Group on Arbitrary Detention, in its Draft Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court, has stated that the right to challenge detention is a judicial remedy designed to protect personal freedom and physical integrity and that it is a non-derogable right.[189]

47. The right to challenge detention is an important tool for addressing the problem of overcrowding given accounts of individuals being detained illegally, or when the pretrial detention limits are not respected or indeed prisoners are not promptly released after serving their sentence.[190] In order to make this right effective, every detainee must be able to take proceedings before an independent court, without substantial delay,[191] and to appear before the court in person. Furthermore, the burden of establishing the legal basis, as well

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[183] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/NCHR_Greece.pdf.

[184] See *Neptune v. Haiti*, Inter-American Court of Human Rights Judgement (2008), para. 183, and Council of Europe document CPT/Inf (2014) 31, para. 56; www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 22.

[185] See S/2015/157, para. 26; A/HRC/25/71, paras. 41-42; CAT/OP/BEN/1, para. 158; CAT/OP/ARG/1, para. 59; www.ohchr.org/Documents/Issues/RuleOfLaw/OverIncarceration/UNODC.pdf.

[186] See www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, p. 64; CPT/Inf (2013) 35, para. 8; CPT/Inf (2014) 31, para. 35; CAT/C/IRL/CO/1, para. 11; CCPR/C/BIH/CO/2, para. 11; A/HRC/25/60/Add.1, para. 84; CCPR/C/URY/CO/3, para. 9; CAT/OP/MDV/1, para. 220.

[187] See Council of Europe document CPT/Inf (2014) 13, para. 39.

[188] See ibid., and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/OSJI.pdf.

[189] See A/HRC/30/37, para. 2, and Principle 4.

[190] See CCPR/C/TUR/CO/1, para. 17, and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/QUNO.pdf.

[191] See A/HRC/27/47, para. 16.

as the reasonableness, necessity and proportionality of detention, lies with the authorities responsible for the detention.[192]

48. Moreover, the Draft Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court provide that anyone deprived of their liberty shall, at any time during their detention, have the right to legal assistance by counsel of choice and access to legal aid.[193] While lawyers are the first providers of legal aid, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems also suggest that States involve a wide range of stakeholders as legal aid service providers, including non-governmental organizations, community-based organizations, religious and non-religious charitable organizations, professional bodies and associations, academia and paralegals.[194]

C. Appropriate use of places of detention

49. The specific purpose for which detention places, including prisons and police stations, are built or established[195] needs to be taken into account when persons are detained. Facilities such as police stations must be used exclusively for short detention as these are not suited to extended custody and lack the necessary space, sanitation and other facilities required to ensure adequate conditions of detention.[196] The capacity of places of detention must be assessed realistically and any such assessment must be based on allocation of reasonable space for each detainee.[197] Ensuring an effective register system for tracking the detention period of each pretrial and sentenced detainee is essential to allow detention places to manage their capacities.[198] Finally, all detention places should be staffed adequately so that they can be run effectively and with due respect to the human rights of those detained.

50. Equally, the negative impact of overcrowding is exacerbated for individuals held in detention places that are not suitable for their specific needs, such as children, women, elderly persons, persons with disabilities and mentally ill.[199] Furthermore, persons who are remanded in custody or sentenced should not continue to be detained in police stations, unlike the practice in some States due to the overcrowding in many prisons.[200]

51. In addition, administrators of places of detention should not be left to cope with the phenomenon of overcrowding[201] and there should be an effective communications system between the various actors of the criminal justice system to ensure that detention places are

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192 See A/HRC/30/37, Principle 13.

193 See A/HRC/30/37, Principle 9.

194 See General Assembly resolution 67/187, annex, paras. 9 and 10; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/OSJI.pdf; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/PRI.pdf.

195 However, there are also reports of detainees being held in places which have never been intended for detention use, which considerably adds to the problems caused by overcrowding. See www.achpr.org/files/sessions/12th-eo/mission-reports/promotion_mission-2012/mission_report_mauritania_cpta_eng.pdf, para. 75.

196 See A/HRC/13/39/Add.5, para. 91.

197 See A/HRC/22/53/Add.2, para. 46, and A/HRC/25/60/Add.1, para. 40.

198 See CAT/OP/PRY/1, para. 46; CAT/C/TGO/CO/2, para. 13; and CAT/OP/BEN/1, para. 161.

199 See CAT/C/GBR/CO/5, para. 31; CCPR/C/FIN/CO/6, para. 10; A/HRC/28/68, para. 41. See also the African Commission on People's and Human Rights, Report of Promotion Mission to Nigeria (2009), available from www.achpr.org/states/nigeria/missions/promo-2009/; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/CRIN.pdf.

200 See Council of Europe document CPT/Inf (2014) 26, para. 13.

201 See Council of Europe document CPT/Inf (2014) 13, para. 39.

not expected to hold people beyond their capacities. Practices such as a legal prohibition on overcrowding[202] should be considered favourably.

D. Pretrial detention as a last resort

52. Since excessive recourse to pretrial detention is one of the major causes of overincarceration and overcrowding around the world,[203] strict adherence to relevant international norms and standards will go a long way in addressing these phenomena. Pretrial detention should only be a measure of last resort.[204]

53. Furthermore, as stressed by the Human Rights Committee in its general comment No. 35, "[d]etention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime".[205] This means that pretrial detention should not be mandatory without regard to individual circumstances,[206] a practice common in some States,[207] and that alternatives to pretrial detention must be duly considered also when deciding upon continued pretrial detention. The time limits imposed for pretrial detention must be strictly observed.[208] Moreover, if the length of time that the defendant has been detained for reaches the length of the longest sentence that could be imposed for the crimes charged, the defendant should be released.[209]

E. Alternatives to custodial measures

54. Against the background of international standards on non-custodial measures,[210] one of the key recommendations of international,[211] regional[212] and national bodies[213] regarding the reduction of overincarceration and overcrowding rates is to develop a policy to increase resort to non-custodial measures and to alternatives to custodial sentences. As stated by the European Committee for the Prevention of Torture, "a strategy for the sustainable reduction of the prison population should be put in place, which ensures that imprisonment is in

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202 See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/Germany.pdf.

203 See CAT/C/54/2, para. 83.

204 See articles 9 and 14 of the International Covenant on Civil and Political Rights. See also rules 6.1 and 6.2 of the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules); CCPR/C/GC/35, para. 38; and A/HRC/19/57, para. 48.

205 See CCPR/C/GC/35, para. 38.

206 See CCPR/C/GC/35, para. 38.

207 See CCPR/C/GC/35, para. 37.

208 See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/LICAMDH_Cameroon.pdf.

209 See CCPR/C/GC/35, para. 38; CAT/OP/MLI/1, para. 30.

210 See United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), A/RES/45/110, annex; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), A/RES/65/229, annex.

211 See CAT/C/ARM/CO/3, para. 19; CAT/C/BLR/CO/4, para. 19; CAT/C/FIN/CO/5-6, para. 14; CAT/C/GTM/CO/5-6, para. 18; CAT/C/KEN/CO/2, para. 12; CAT/C/SYR/CO/1, para. 30; E/CN.4/2004/56, para. 49; CCPR/C/IND/CO/1, para. 21; CCPR/C/PHL/CO/4, para. 19.

212 See Council of Europe document CPT/Inf (2015) 12, para. 44; www.achpr.org/files/sessions/37th/mission-reports/ethiopia/misrep_specmec_priso_ethopia_2004_eng.pdf, p. 45.

213 See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/Serbia.pdf; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/SUHAKAM_Malaysia.pdf.

practice the measure of last resort at all stages of the criminal justice system, from pretrial to the execution of sentences".[214]

55. In order to render alternatives to detention effective, there must be a variety of measures available at pretrial and conviction stage, such as affordable bail,[215] automatic bail for most offences,[216] monetary fines, electronically monitored house arrest,[217] community service, juvenile punishment and supervision of paroles[218] as well as remission or commutation of sentences and parole or pardon system.[219] Eligibility criteria for all these alternative measures should be reviewed so as to widen their scope of application.[220] In particular, it is crucial that alternatives to custodial measures are duly considered for such groups as women, elderly, children and people with disabilities.[221]

56. However, alternatives to detention should not only be provided for in legislation, but also implemented in practice.[222] In order to ensure that there is support from the prosecutorial services, the judiciary and the public, it is essential that the system of alternatives to detention is run efficiently[223] and is adequately resourced.

F. Proportionate sentencing

57. Proportionate sentencing is an essential requirement of an effective and fair criminal justice system. This requires that custodial sentences are imposed as measures of last resort and applied proportionately to meet a pressing societal need.[224]

58. In order to meet the requirement of proportionality, States have been revising their penal policies and legislation in order to reduce minimum and maximum penalties,[225] decriminalize numerous categories of petty crimes and reduce criminal sanctions for economic offences,[226] thus contributing to reducing the total prison population.[227] Equally, reviewing sentencing policies to reduce or eliminate mandatory minimum sentences for lesser, non-violent offences and to provide more reasonable sentencing guidelines in order to reduce excessively lengthy sentences also has had a positive effect upon the reduction of overincarceration and overcrowding.[228] Appropriate action, including training, should be taken vis-à-vis the prosecutorial and judicial authorities with a view to eliminating unnecessary recourse to pretrial custody and modifying the sentencing practices.[229] Special

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[214] See Council of Europe document CPT/Inf (2014) 31, para. 56. See also CAT/OP/NZL/1, para. 33.
[215] See www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 22.
[216] See Council of Europe document CPT/Inf(2014) 15, para. 98.
[217] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/Germany.pdf.
[218] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/OPO_Finland.pdf.
[219] See A/HRC/25/60/Add.1, para. 99.
[220] See A/HRC/25/60/Add.1, para. 99.
[221] See CRC/C/AZE/CO/3-4, para. 75; A/HRC/22/53/Add.2, para. 92; A/HRC/28/68, para. 39; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/QUNO.pdf.
[222] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/CNDH_Mexico.pdf.
[223] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/NCHR_Slovakia.pdf.
[224] See E/CN.4/2006/7, para. 63; and CAT/OP/MDV/1, para. 220.
[225] See CAT/C/MDA/CO/2, para. 18.
[226] See Council of Europe document CPT/Inf (2014) 15, para. 98.
[227] See www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/RussianFederation.pdf; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/Kazakhstan.pdf.
[228] See A/HRC/25/60/Add.1, para. 84.
[229] See A/HRC/25/60/Add.1, para. 99; and Council of Europe document CPT/Inf (2015) 12, para. 44. See also www.achpr.org/files/sessions/37th/mission-reports/prisons-2004/misrep_specmec_priso_southafrica_2004_eng.pdf, para. F(1).

attention should be paid to the reduction of life sentences and ensuring a genuine possibility of parole for all detainees, including those serving life sentences.[230]

G. Rehabilitation and reduction of reoffending rates

59. Providing effective rehabilitation services while in custody and following release as well as addressing reoffending are important factors in reducing overcrowding.[231] Targeted crime-prevention programmes aimed at specific groups must be considered.[232]

60. Addressing reoffending rates is a complex task requiring a policy of reintegration into society of former detainees[233] and involvement from families[234] as well as the community concerned,[235] so as to ensure effective reintegration. Further measures, such as drug rehabilitation programmes in order to reduce the risk of reoffending, should be considered favourably.[236]

H. Oversight and complaints mechanisms

61. Regular monitoring of places of detention is an important factor in addressing the issues of overincarceration and overcrowding, as it increases transparency and efficiency of the prison system[237] and makes it possible to detect and combat the phenomena.[238] Moreover, it is important that monitoring be carried out by a variety of relevant bodies and institutions.

62. Oversight by the prosecutors and judiciary is important so that they are cognizant of the prevalent conditions when taking decisions about detention.[239] It is also hoped that the draft Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court will help to establish effective mechanisms to ensure judicial oversight over all situations of deprivation of liberty.[240] Inspections carried out by various professional bodies to ensure observance of such standards as health and safety, building standards, hygiene and sanitation are paramount.[241] Independent oversight by mechanisms such as national preventive mechanisms, national

[230] See *Vinter and others v. U.K.*, European Court of Human Rights Judgement (2013).
[231] See CAT/OP/MLI/1, para. 67, CAT/OP/BEN/1, para. 151; and CAT/C/GBR/CO/5, para. 31. See also www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, pp. 21 and 22; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/CHR_Philippines.pdf; www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/SUHAKAM_Malaysia.pdf; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/RussianFederation.pdf.
[232] See CEDAW/C/BRA/CO/7, para. 32.
[233] See Council of Europe document CPT/Inf (2015) 12, para. 44; CPT/Inf (2015) 6, para. 46; and www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/ElSalvador.pdf.
[234] See www.ohchr.org/Documents/Issues/RuleOfLaw/OverIncarceration/UNODC.pdf.
[235] See CAT/OP/NZL/1, paras. 33 and 34; and www.ohchr.org/Documents/Issues/RuleOfLaw/OverIncarceration/UNODC.pdf.
[236] See CAT/OP/MDV/1, para. 220.
[237] See www.achpr.org/files/sessions/52nd/inter-act-reps/185/activty_report_prisons_eng.pdf, p. 23.
[238] See Council of Europe document CPT/Inf (2014) 15, para. 100.
[239] See CAT/OP/MLI/1, para. 29, and A/HRC/19/57, para. 36.
[240] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16257&LangID=E.
[241] See www.ohchr.org/Documents/Issues/RuleOfLaw/OverIncarceration/UNODC.pdf.

human rights institutions and civil society contributes to monitoring the overcrowding and assisting authorities with its reduction.[242]

63. The existence and proper functioning of independent complaints mechanisms fully accessible to detainees is also extremely important in order to alleviate overcrowding, overincarceration and their negative effects.[243]

V. Conclusions

64. **When resorting to deprivation of liberty, States infringe upon one of the core human rights: the liberty of person. In order to justify such interference, States should apply deprivation of liberty as a measure of last resort and only after alternatives have been duly considered.**

65. **However, when deprivation of liberty is absolutely necessary, the State bears special responsibility towards those it detains. This entails an obligation to treat all prisoners with respect due to their inherent dignity and value as human beings, the very first requirement of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).**[244]

66. **The overuse of detention overstretches the often scarce prison resources, puts detention staff in extremely difficult, even dangerous conditions, and has serious implications on the human rights of persons deprived of their liberty. Moreover, overincarceration also constitutes one of the major underlying causes of overcrowding, which results in conditions that can amount to ill-treatment or even torture.**[245]

67. **In order to address overincarceration and overcrowding and their human rights implications, several recommendations are made in section IV of the present document, including to adopt a proactive and holistic approach; ensure respect for detainees' right to challenge detention, to be provided with assistance by legal counsel and to have access to legal aid; use places of detention only for the purpose for which they are fit; use pretrial detention only as a last resort; develop and implement alternatives to custodial measures during pretrial and post-conviction; review penal policies and legislation to ensure proportionate sentencing; provide effective rehabilitation services to contribute to reducing reoffending rates; and ensure the existence and proper functioning of independent oversight and complaints mechanisms.**

68. **Since deprivation of liberty by its very nature increases social disadvantage and vulnerability to human rights violations, steps taken by States to fulfil and protect the rights of those it detains are of immense significance.**[246] **Proactive steps to address the phenomena of overincarceration and overcrowding in places of detention not only ensure that States comply with their international obligations, but also guarantee detainees the dignity inherent to every human being.**

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[242] See A/HRC/25/60/Add.1, para. 39; CAT/C/IRL/CO/1, para. 11; and CCPR/C/KAZ/CO/1, para. 17. See also www.ohchr.org/Documents/Issues/RuleOfLaw/Overincarceration/LICAMDH_Cameroon.pdf.

[243] CCPR/C/AGO/CO/1, para. 19; CCPR/C/BDI/CO/2, para. 18; and CCPR/C/TCD/CO/2, para. 18.

[244] E/CN.15/2015/L.6/Rev.1, annex, Rule 1.

[245] A/68/295, para. 86.

[246] A/HRC/11/8, para. 29.